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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**

RECEIVED

JUL 06 2015

WASH. UT. & TP. COMM

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

July 2, 2015

Mr. Donald Porter
President
BP Pipeline NA
Olympic Pipe Line Company
150 W. Warrenville Rd.
Naperville, IL 60563

CPF 5-2015-5014

Dear Mr. Porter:

Between August 11 and August 29, 2014, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), and Washington Utilities and Trade Commission (WUTC), pursuant to Chapter 601 of 49 United States Code, inspected your Olympic Pipe Line Co. (OPL) system in the States of Oregon and Washington.

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

1. **§195.573 What must I do to monitor external corrosion control?**
(e) Corrective action. You must correct any identified deficiency in corrosion control as required by Sec. 195.401(b). However, if the deficiency involves a pipeline in an integrity management program under Sec. 195.452, you must correct the deficiency as required by Sec. 195.452(h).

OPL failed to correct identified deficiencies in corrosion control as required by Sec. 195.401(b) and Sec. 195.452(h). After a 2010 in-line-inspection (ILI), OPL found discrepancies in the ILI data that indicated the presence of unrecorded casings on the pipeline system. OPL subsequently performed excavations which revealed casings, sleeves, or half sections of pipe at these locations. Some of these casings OPL knew about, but many were previously unknown by the operator's staff. In 2011, OPL initiated the "Casing Wire Repairs" project to evaluate ILI indications that suggested the presence of these casings, investigate the indications, and either remove the casing or add test leads to inspect and test for casing isolation.

Section 195.401(b) requires OPL to correct "any condition that could adversely affect the safe operation of its pipeline system... within a reasonable time." Section 195.452(h) requires OPL to take "prompt action to address all anomalous conditions the operator discovers" in high consequence areas (HCAs). As of August 2014, OPL had mitigated about 100 of the ILI indications, with 97 suspected casings remaining to evaluate. OPL's projected timeline for completion is 2020. OPS alleges that 10 years to correct these anomalies is not a reasonable or prompt schedule. In addition, the written Casing Wire Repair project does not differentiate between HCA versus non-HCA locations when prioritizing casing investigation digs.

2. **§ 195.575 Which facilities must I electrically isolate and what inspections, tests, and safeguards are required?**
 - (a) **You must electrically isolate each buried or submerged pipeline from other metallic structures, unless you electrically interconnect and cathodically protect the pipeline and the other structures as a single unit.**
 - (b) **You must install one or more insulating devices where electrical isolation of a portion of a pipeline is necessary to facilitate the application of corrosion control.**
 - (c) **You must inspect and electrically test each electrical isolation to assure the isolation is adequate.**

OPL failed to test the electrical isolation of each buried pipeline to ensure the isolation from other metallic structures was adequate. Casings are buried metallic structures in close proximity to the pipeline. As described in Item 1 above, OPL has discovered casings and casing test leads on the pipeline that were not on alignment sheets or other cathodic protection records. The electrical isolation of the previously-unrecorded casings was not tested to assure adequate isolation from the pipeline.

Proposed Compliance Order

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$200,000 per violation per day the violation persists up to a maximum of \$2,000,000 for a related series of violations. For violations occurring prior to January 4, 2012, the maximum penalty may not exceed \$100,000 per violation per day, with a maximum penalty not to exceed \$1,000,000 for a related series of violations.

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.

With respect to Items 1 and 2 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to OPL. 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 Compliance Proceedings*. Please refer to this document and note the response options. Be advised that all material you submit in response to this enforcement action is subject to being 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). 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.

In your correspondence on this matter, please refer to **CPF 5-2015-5014** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,



Chris Hoidal
Director, Western Region
Pipeline and Hazardous Materials Safety Administration

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

cc: PHP-60 Compliance Registry
PHP-500 C. Allen (Activities: 147690 and 147691)
WUTC

PROPOSED COMPLIANCE ORDER

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

1. In regard to Items 1 and 2 of the Notice, OPL must make the following changes to the Casing Wire Repairs project:
 - a. OPL must schedule the project to mitigate all remaining indications no later than 30 months from the date of the Final Order.
 - b. OPL must determine whether additional casings exist on their pipeline and update maps and records as necessary to ensure all programmatic systems which use this data, including IMP, are accurate.
 - c. The project must prioritize HCAs when scheduling casing investigation digs. All indications within HCAs must be completed no later than 18 months from the date of the Final Order.
 - d. OPL must submit the changes to the Casing Wire Repair project within 30 days after receipt of the Final Order.
2. OPL must submit annual status reports to the Director regarding the status of the Casing Wire Project, with the first report due January 15, 2016.
3. PHMSA requests that OPL maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Chris Hoidal, 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.

Response Options for Pipeline Operators in Enforcement Proceedings

The provisions of 49 C.F.R. Part 190, Subpart B (§§ 190.201–190.243) govern response options to enforcement actions initiated by a Regional Director, Pipeline and Hazardous Materials Safety Administration (PHMSA). You are advised to consult Subpart B for further information regarding your rights and responsibilities in such proceedings.

Be advised that all material submitted by a respondent in response to an enforcement action is subject to being 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).

I. Procedures for Responding to a NOTICE OF PROBABLE VIOLATION:

Within 30 days of receipt of a Notice of Probable Violation, the respondent shall respond to the Regional Director who issued the Notice in the following way:

- a. When the Notice contains a PROPOSED CIVIL PENALTY* --
 1. If you are not contesting any violations alleged in the Notice, pay the proposed civil penalty and advise the Regional Director of the payment. This authorizes PHMSA to issue an order making findings of violation and upon confirmation that the payment has been received PHMSA will close the case (subject to any outstanding compliance order). Payment terms are outlined below;
 2. If you are not contesting any violations alleged in the Notice but wish to submit written explanations, information, or other materials you believe warrant mitigation of the civil penalty, you may submit such materials. This authorizes PHMSA to make findings and to issue a Final Order. PHMSA will consider your submission in deciding whether to reduce or eliminate the penalty amount proposed in the Notice. Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$200,000 per violation per day the violation persists up to a maximum of \$2,000,000 for a related series of violations. For violations occurring prior to January 4, 2012, the maximum civil penalty may not exceed \$100,000 per violation per day, with a maximum penalty not to exceed \$1,000,000 for a related series of violations. Refer to 49 C.F.R. § 190.225 for assessment considerations upon which civil penalties are based;

3. If you are contesting one or more of the items in the Notice but are not requesting an oral hearing, submit a written response to the allegations and/or seek elimination or mitigation of the proposed civil penalty; or
4. Request a hearing as described below to contest the allegations and/or proposed assessment of a civil penalty.

b. When the Notice contains a **PROPOSED COMPLIANCE ORDER*** --

1. If you are not contesting the proposed compliance order and the alleged violations associated with it, notify the Regional Director that you intend to take the actions in the proposed compliance order;
2. If you are not contesting the compliance order but wish to submit written explanations, information, or other materials you believe warrant modification of the proposed compliance order in whole or in part, or you seek clarification of the terms of the proposed compliance order, you may submit such materials. This authorizes PHMSA to make findings and issue a compliance order;
3. If you are contesting the proposed compliance order but are not requesting an oral hearing, submit written explanations, information, or other materials in answer to the allegations in the Notice and stating your reasons for objecting to the proposed compliance order items in whole or in part; or
4. Request a hearing as described below to contest the allegations and/or proposed compliance order items.

c. When the Notice contains a **WARNING ITEM** --

No written response is required. The respondent is warned that if it does not take appropriate action to correct these items, enforcement action will be taken if a subsequent inspection reveals a violation.

* Failure of the respondent to respond to the Notice within 30 days of receipt constitutes a waiver of the right to contest the allegations in the Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in the Notice without further notice to the respondent and to issue a Final Order.

II. Procedures for Responding to a NOTICE OF AMENDMENT*--

Within 30 days of receipt of a Notice of Amendment, the respondent shall respond to the Regional Director who issued the Notice in the following way:

- a. If you are not contesting the Notice, notify the Regional Director of your plans to address the inadequacies identified in the Notice and/or submit copies of your amended procedures;
- b. If you are not contesting the Notice but wish to submit written explanations, information, or other materials you believe warrant modification of the Notice of Amendment in whole or in part, or you seek clarification of the terms of the Notice of Amendment, you may submit such materials. This authorizes PHMSA to make findings and issue an Order Directing Amendment;
- c. If you are contesting the Notice of Amendment but are not requesting an oral hearing, submit written explanations, information, or other materials in answer to the allegations in the Notice and stating your reasons for objecting to the Notice of Amendment items in whole or in part; or
- d. Request a hearing as described below to contest the allegations in the Notice.

* Failure of the respondent to respond to the Notice within 30 days of receipt constitutes a waiver of the right to contest the allegations in the Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in the Notice without further notice to the respondent and to issue a Final Order.

III. Procedure for Requesting a Hearing

A request for a hearing must be in writing and accompanied by a statement of the issues that the respondent intends to raise at the hearing. The issues may relate to the regulatory requirement or factual basis for the allegations, to the proposed compliance order, or to the proposed civil penalty amount. Refer to 49 C.F.R. § 190.225 for assessment considerations upon which civil penalties are based. A respondent's failure to specify an issue may result in waiver of the right to raise that issue at the hearing. The respondent's request must also indicate whether or not respondent will be represented by counsel at the hearing. Failure to request a hearing in writing within 30 days of receipt of a Notice waives the right to a hearing. In addition, if the amount of the proposed civil penalty or the proposed corrective action is less than \$25,000, the hearing will be held by telephone, unless the respondent submits a written request for an in-person hearing. Complete hearing procedures can be found at 49 C.F.R. § 190.211.

IV. **Extensions of Time**

An extension of time to prepare an appropriate response to a Notice may be granted, at the agency's discretion, following submittal of a written request to the Regional Director. The request must indicate the amount of time needed and the reasons for the extension. The request must be submitted within 30 days of receipt of the Notice.

V. **Case File**

Case file documents are available to the respondent of enforcement proceedings per 49 C.F.R. § 190.209. Documents in the case file are provided upon request, if prepared.

VI. **Freedom of Information Act**

Any material provided to PHMSA by the respondent, and materials prepared by PHMSA including the Notice and any order issued in this case, may be considered public information and subject to disclosure under the Freedom of Information Act (FOIA). If you believe the information you are providing is security sensitive, privileged, confidential or may cause your company competitive disadvantages, please clearly identify the material and provide justification why you believe the documents, or portions of a document, qualify for confidential treatment under 5 U.S.C. 552(b). If we receive a request for your material, we will notify you if PHMSA, after reviewing the materials and your provided justification, determines that withholding the materials does not meet any exemption provided under the FOIA. You may appeal the agency's decision to release material under the FOIA at that time. Your appeal will stay the release of those materials until a final decision is made.

VII. **The Rights of Small Entities to Enforcement Fairness and Policy Against Retaliation**

The Department of Transportation has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights. Our objective is to ensure a fair regulatory enforcement environment. If you feel you have been treated unfairly or unprofessionally, you may contact the PHMSA Office of Chief Counsel. You also have the right to contact the Small Business Administration's National Ombudsman at 1-888-REGFAIR or www.sba.gov/ombudsman regarding the fairness of the compliance and enforcement activities of this agency.

The Department of Transportation strictly forbids retaliatory acts by its employees. As such, you should feel confident that you will not be penalized for expressing your concerns about compliance and enforcement activities.

VIII. **Small Business Regulatory Enforcement Fairness Act Information**

The Small Business and Agricultural Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of the Pipeline and Hazardous Materials Safety Administration, call 1-888-REG-FAIR (1-888-734-3247) or go to http://www.sba.gov/ombudsman/dsp_faq.html.

IX. **Payment Instructions**

Civil Penalty Payments of Less Than \$10,000

Payment of a civil penalty of less than \$10,000 proposed or assessed, under Subpart B of Part 190 of the Pipeline Safety Regulations can be made by certified check, money order or wire transfer. Payment by certified check or money order (containing the CPF Number for this case) should be made payable to the "Department of Transportation" and should be sent to:

Federal Aviation Administration
Mike Monroney Aeronautical Center
Financial Operations Division (AMK-325) P.O. Box 269039
Oklahoma City, OK 73125-4915

Wire transfer payments of less than \$10,000 may be made through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury. Detailed instructions are provided below. Questions concerning wire transfer should be directed to the Financial Operations Division at (405) 954-8845, or at the above address.

Civil Penalty Payments of \$10,000 or more

Payment of a civil penalty of \$10,000 or more proposed or assessed under Subpart B of Part 190 of the Pipeline Safety Regulations must be made wire transfer (49 C.F.R. § 89.21 (b)(3)), through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury. Detailed instructions are provided below. Questions concerning wire transfers should be directed to the Financial Operations Division at (405) 954-8845, or at the above address.

INSTRUCTIONS FOR ELECTRONIC FUND TRANSFERS

(1) <u>RECEIVER ABA NO.</u> 021030004	(2) <u>TYPE/SUB-TYPE</u> (Provided by sending bank)
(3) <u>SENDING BANK ABA NO.</u> (Provided by sending bank)	(4) <u>SENDING BANK REF NO.</u> (Provided by sending bank)
(5) <u>AMOUNT</u>	(6) <u>SENDING BANK NAME</u> (Provided by sending bank)
(7) <u>RECEIVER NAME</u> TREAS NYC	(8) <u>PRODUCT CODE</u> (Normally CTR, or as provided by sending bank)
(9) <u>BENEFICIAL (BNF) = AGENCY LOCATION CODE</u> 69140001	(10) <u>REASONS FOR PAYMENT</u> Example: PHMSA - CPF # / Ticket Number/Pipeline Assessment number

INSTRUCTIONS: You, as sender of the wire transfer, must provide the sending bank with the information for blocks (1), (5), (7), (9), and (10). The information provided in Blocks (1), (7), and (9) are constant and remain the same for all wire transfers to the Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

Block #1 - RECEIVER ABA NO. - "021030004". Ensure the sending bank enters this 9-digit identification number; it represents the routing symbol for the U.S. Treasury at the Federal Reserve Bank in New York.

Block #5 - AMOUNT - You as the sender provide the amount of the transfer. Please be sure the transfer amount is punctuated with commas and a decimal point. **EXAMPLE: \$10,000.00**

Block #7 - RECEIVER NAME - "TREAS NYC". Ensure the sending bank enters this abbreviation. It must be used for all wire transfers to the Treasury Department.

Block #9 - BENEFICIAL - AGENCY LOCATION CODE - "**69140001**". Ensure the sending bank enters this information. This is the Agency Location Code for the Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

Block #10 - REASON FOR PAYMENT - "**AC-payment for PHMSA Case # / To ensure your wire transfer is credited properly, enter the case number/ticket number or Pipeline Assessment number, and country.**"

NOTE: A wire transfer must comply with the format and instructions or the Department cannot accept the wire transfer. You as the sender can assist this process by notifying the Financial Operations Division (405) 954-8845 at the time you send the wire transfer.