

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

VIA ELECTRONIC MAIL TO: mark.hewett@nngco.com, thomas.correll@nngco.com;
john.gormley@nngco.com;

May 17, 2023

Mr. Mark Hewett
President/CEO
Northern Natural Gas Company
1111 S. 103rd Street
Omaha, NE 68124

CPF 3-2023-009-NOPV

Dear Mr. Hewett:

From February 28, 2022 to September 23, 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 onsite inspection of Northern Natural Gas Company's (NNG) procedures and records for the Operations and Maintenance (O&M), Integrity Management Plan (IMP), and Operator Qualification (OQ) in Nebraska, Iowa, Michigan, Minnesota, and Wisconsin.

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

1. § 192.467 External corrosion control: Electrical isolation.

(a)

(c) Except for unprotected copper inserted in ferrous pipe, each pipeline must be electrically isolated from metallic casings that are a part of the underground system. However, if isolation is not achieved because it is impractical, other measures must be taken to minimize corrosion of the pipeline inside the casing.

NNG failed to comply with the regulation because it did not electrically isolate the pipeline from metallic casings that are a part of the underground system. NNG failed to provide documentation on why this isolation was not achieved or if it was impractical to achieve. NNG did not provide information that it had taken other measures to minimize corrosion inside the casing if isolation was impractical.

From a review of corrosion control records, PHMSA identified shorted casings for the following pipeline segments:

- Line 179M471B Test Point 471B.223 - MP 142.00
Casing tests were conducted on 11/8/1989 and 9/6/2013 and both indicated a metallic short. The casing was filled with wax in 2020 as stated during the records review. The casing then was retested on 1/13/2021 and still exhibited a metallic short. This was still determined to be a metallic short at the time of inspection and no further action was taken by NNG to perform other measures to minimize corrosion of the pipeline inside the casing.
- Line 179SDB90401 - MP 9.8
Casing test was conducted on 2/29/2000 and indicated a metallic short. The casing was filled with wax and retested on 4/16/2022. This was still determined to be a metallic short at the time of inspection and no further action was taken by NNG to perform other measures to minimize corrosion of the pipeline inside the casing. In 2021, the Cathodic Protection reads stated that the casing was clear. However the casing was not clear according to the documentation presented to PHMSA at the time of inspection. Remedial action according to NNG's procedure is to be taken.
- Line 179SDB91601 - MP 2.65
Casing test was conducted on 9/6/2005 and repeated on 10/19/2020. The results of both indicated a metallic short. This was still determined to be a metallic short at the time of inspection and no further action was taken by NNG to perform other measures to minimize corrosion of the pipeline inside the casing.

Additionally, during the inspection, PHMSA requested a complete list of shorted casings for the inspection system, however, the casings listed above were not on the list provided to PHMSA by NNG.

2. § 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

NNG failed to follow its own O&M plan from 80.212 Cleaning Pipelines Using Pigs, Section 5.1:

“Where pigging is used to remove liquids on a frequent, periodic basis for internal corrosion control or mitigation, document tools used and all findings using the operating procedure 80.212a, Appendix A: Routine Pigging Log. Submit logs into the company’s records management system. Use the category, pigging log sheets on the Document Submittal Form. Retain these records for the life of the facility.”

During the field inspection of the Redfield Storage area, PHMSA observed that an Excel form was utilized for this activity which was not part of the NNG’s procedure. NNG has since modified their procedure to address the use of this form for documenting pigging in storage fields. PHMSA has reviewed the modification to NNG’s procedure after the inspection and found it satisfactory.

3. § 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

NNG failed to follow their own O&M plan 160.101 Valve Maintenance, Section 5.1.7:

“If a valve is found to be in a bind, experiencing outside forces, or abnormal loading, inoperable, difficult to operate, or doesn't seal, initiate prompt remedial action. Contact the manager or team leader to designate an alternative valve that can be utilized to satisfy the functions of the inoperable valve until it is repaired. If repairs can be made by field personnel during the MCS activity, note the issue and repairs in the comments section of the MCS task sheet when completing. If repairs are unsuccessful, note the issue and that it was not resolved in the comments section of the MCS task and create an EATS general action item and use the list, **PLS - Valve Integrity Tracker**. Include the valve number, pipeline name and a description of the repair required as well as the alternate valve number. Tag the valve with issue found and denote the alternate valve on the tag as per guide material in 160.101a.”

Upon review of the records provided by NNG, PHMSA identified 18 valves that did not follow NNG's Procedure 160.101 Valve Maintenance, Section 5.1.7 as stated above.

PHMSA requested the MCS task sheets for the inspection system as well as the **PLS – Valve Integrity Tracker** from their EATS system. NNG provided the EATS report, **PLS – Valve Integrity Tracker** and a spreadsheet that is maintained by the field which appears to be an export from the MCS system with columns added at the end of the report.

NNG is currently not following their O&M by omitting comments in its MCS system to track deficiencies and issues with its valves and devices that have been found by field personnel during inspection. The actions taken in the field need to be documented to inform field personnel that there is a potential issue with a valve being inspected, as prescribed by NNG's O&M procedure 160.101. The valve spreadsheet entries provided by NNG do not include comments corresponding to the issues identified in the Valve Integrity Tracker data.

4. § 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

NNG failed to follow their O&M procedure 080.501 and observe surface conditions over its right-of-way when conducting aerial patrols of its pipeline system in this inspection system. During the field inspection, PHMSA observed overgrown areas of trees and

brush obscuring the aerial view of the right-of-way in multiple locations for this inspection system. No ground patrols were conducted on this inspection system in the following three (3) locations:

1. Line 11001 MP 6.624
2. Line 19901 MP 4.283 East from County Road D
3. Line SDB94101, MP 0.93 (Heinrich property)

Additionally, NNG provided the aerial reports for the inspection system and there was no mention of the ROW obstruction in any of the cited areas. According to their procedure 080.501 Patrol Program and the 080.501a Appendix A Aerial Patrol Report Form, NNG should be reporting these issues from the aerial patrol on the form. Regarding the objective of patrolling, it states that: "Observations include looking for leak areas, bank erosion or exposed pipeline, brush growing over lines, any unknown encroachment activity, or any change in what might be considered the normal appearance for activity and land terrain through the pipeline corridor."

PHMSA does recognize that NNG has cleared the ROW for the above-cited locations after the inspection.

5. § 192.917 How does an operator identify potential threats to pipeline integrity and use the threat identification in its integrity program?

(a)

(c) *Risk assessment.* An operator must conduct a risk assessment that follows ASME/ANSI B31.8S, section 5, and considers the identified threats for each covered segment. An operator must use the risk assessment to prioritize the covered segments for the baseline and continual reassessments (§§192.919, 192.921, 192.937), and to determine what additional preventive and mitigative measures are needed (§192.935) for the covered segment.

NNG's risk assessment program failed to appropriately consider the identified threats for each covered segment. PHMSA reviewed NNG's risk model and data in regards to metallic and electrolytic shorts in casings and NNG failed to incorporate any shorted casings into their risk model.

NNG's procedure 040.202 Electrical Isolation, section 5.4.3 clearly states that shorted casing will be addressed in the risk model.

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 documentation involved for the above probable violations and recommend that you be preliminarily assessed a civil penalty of \$75,200 as follows:

<u>Item number</u>	<u>PENALTY</u>
4	\$75,200

Warning Items

With respect to Items 1, 2, 3, and 5, we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to promptly correct these Items. Failure to do so may result in additional enforcement action.

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 3-2023-009-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

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

cc: John Gormley (john.gormley@nngco.com)
Thomas Correll (thomas.correll@nngco.com)