



Public Service Commission State of North Dakota

COMMISSIONERS

Randy Christmann
Sherri Haugen-Hoffart
Julie Fedorchak

600 East Boulevard Avenue Dept. 408
Bismarck, ND 58505-0480
Web: www.psc.nd.gov
Phone: 701-328-2400
ND Toll Free: 1-877-245-6685
Fax: 701-328-2410
TDD: 800-366-6888 or 711

September 7, 2023

Mr. Scott Seibert
Manager, Regulatory & Environment, US Ops
Aux Sable Midstream LLC
6155 E. US Route 6
Morris, IL 60450
Scott.Seibert@auxsable.com

Re: Case No. GS-23-242

Dear Mr. Seibert:

On June 23, 2023, Staff completed a biennial inspection of Aux Sable Midstream LLC Transmission Operations and Maintenance Records. As a result of the inspection, one probable violation was identified.

Aux Sable Midstream LLC is required to respond in the manner specified in the Response Options section of the Notice of Probable Violation (NOPV), within 30 days of the date of receipt of the NOPV.

If you have any further questions or require additional information, I may be contacted by email at csimburger@nd.gov or by phone at 701-328-4056.

Sincerely,


Caleb Simburger
Program Manager, Pipeline Safety Program

cc: Bob Bachmeier, Specialist, Regulatory (electronic mail only)

Enclosure

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
Aux Sable Midstream LLC
Pipeline Safety Enforcement**

Case No. GS-23-242

NOTICE OF PROBABLE VIOLATION

September 7, 2023

Pursuant to North Dakota Century Code (N.D.C.C.) section 49-02-01.2, and North Dakota Administrative Code (N.D. Admin. Code) chapter 69-09-03, Public Service Commission (Commission) Gas Pipeline Safety Staff (Staff) conducted a Biennial Transmission Operations & Maintenance Records Inspection of Aux Sable Midstream LLC (Aux Sable). As a result of the inspection, a probable violation of the Commission's gas pipeline safety regulations was identified.

DATE(S) OF AUDIT:

May 5, 2023 - June 23, 2023

TYPE OF AUDIT:

Biennial Operations & Maintenance Records Inspection

LOCATION OF AUDIT:

Aux Sable offices located at 6138 74th Avenue NW, Palermo, ND 58769

PSC STAFF:

Caleb Simburger, Program Manager/Inspector
Lakken Paulsrud, Inspector
Brandon Wahlfeldt, Inspector

OPERATOR'S AUDIT CONTACT PERSON:

Bob Bachmeier
Specialist, Regulatory
bbachmeier@pembina.com
701-394-9722

INSPECTION

A Biennial Transmission Operations & Maintenance (O&M) Records Inspection of Aux Sable was conducted in-person at the Aux Sable offices in Palermo, North Dakota. Follow-up items were requested and reviewed remotely. The inspection was completed June 23, 2023.

As a result of the inspection, Staff believes that Aux Sable committed a probable violation of pipeline safety regulations.

PROBABLE VIOLATION NO. 1:

INSPECTION FINDINGS:

Aux Sable O&M records indicate that the capacity of pressure relief devices at pressure limiting stations and pressure regulating stations was not determined at the frequency required by 49 CFR Part 192.743(a) which states capacity must be determined at intervals not exceeding 15 months, but at least once each calendar year. Records indicate that capacity was determined on May 31, 2023, which exceeded the code required interval by one month and four days (the preceding determination was conducted on January 27, 2022). Aux Sable stated that this oversight was corrected upon discovery and was due to the reassignment of responsibilities after an internal personnel/role change.

PIPELINE SAFETY REGULATION IN EFFECT AT TIME OF PROBABLE VIOLATION:

49 CFR Part 192.743 Pressure limiting and regulating stations: Capacity of relief devices.

- (a) Pressure relief devices at pressure limiting stations and pressure regulating stations must have sufficient capacity to protect the facilities to which they are connected. Except as provided in §192.739(b), the capacity must be consistent with the pressure limits of §192.201(a). This capacity must be determined at intervals not exceeding 15 months, but at least once each calendar year, by testing the devices in place or by review and calculations.

VIOLATION:

As operator of the system, Aux Sable is responsible for complying with gas pipeline safety regulations. Aux Sable failed to determine the capacity of pressure relief devices at pressure limiting stations and pressure regulating stations on their regulated transmission system at the frequency required by § 192.743(a).

PROPOSED CIVIL PENALTY:

Any person or entity who violates a rule or order of the Commission pursuant to N.D.C.C. § 49-02-01.2 and N.D. Admin. Code Chapter 69-09-03, is subject to a civil penalty not to exceed two hundred thousand dollars for each violation for each day that the violation continues, except that the maximum penalty may not exceed two million dollars for any related series of violations.

The Proposed Civil Penalty is \$500.00.

RESPONSE OPTIONS:

The respondent may provide an answer or response addressed to the following:

Public Service Commission
Attn: Caleb Simburger
600 E. Boulevard Ave., Dept. 408
Bismarck, ND 58505-0480

Within 30 days of receipt of a Notice of Probable Violation, the respondent must answer in the following manner:

- (a) When the notice contains a proposed civil penalty —
 - (1) If the respondent is not contesting an allegation of probable violation, pay the proposed civil penalty by certified check or money order made payable to “North Dakota Public Service Commission,” and advise the Gas Pipeline Safety Program Manager of the payment. The payment authorizes the Commission to make a finding of violation and to issue a final Order;
 - (2) If the respondent is not contesting an allegation of probable violation, but wishes to submit a written explanation, information, or other materials the respondent believes may warrant mitigation or elimination of the proposed civil penalty, the respondent may submit such materials. This authorizes the Commission to make a finding of violation and to issue a final Order;
 - (3) If the respondent is contesting one or more allegations of probable violation, but is not requesting a hearing, the respondent may submit a written response in answer to the allegations; or
 - (4) The respondent may request a hearing.

(b) When the notice contains a proposed Compliance Order—

- (1) If the respondent is not contesting an allegation of probable violation, agree to the proposed Compliance Order. This authorizes the Commission to make a finding of violation and to issue a final Order;
- (2) Request the execution of a Consent Order;
- (3) If the respondent is contesting one or more of the allegations of probable violation or compliance terms, but is not requesting a hearing, the respondent may object to the proposed compliance order and submit written explanations, information, or other materials in answer to the allegations in the notice of probable violation; or
- (4) The respondent may request a hearing.

Before or after responding in accordance with paragraph (a) or, when applicable paragraph (b), the respondent may request a copy of the violation report. The violation report will be provided to the respondent within five business days of receiving a request.

Failure by the respondent to respond in accordance with paragraph (a) or, when applicable paragraph (b), constitutes a waiver of the right to contest the allegations in the Notice of Probable Violation and authorizes the Commission, without further notice to the respondent, to find the facts as alleged in the Notice of Probable Violation and to issue a final order.

All materials submitted by operators in response to enforcement actions may be placed on publicly accessible websites. A respondent seeking confidential treatment for any portion of its responsive materials must submit an application in accordance with N. D. Admin. Code Chapter 69-02-09.