

**Before The
U.S. Department Of Transportation
Pipeline And Hazardous Materials Safety Administration
Office Of Pipeline Safety**

_____)
In the Matter of:)
)
Kinder Morgan Liquids Terminals, LLC)
Carteret, New Jersey)
)
Respondent)
_____)

CPF No. 1-2011-5009

**Written Response To
Notice Of Probable Violation,
Proposed Compliance Order
And Proposed Civil Penalty**

Kinder Morgan Liquids Terminals, LLC. (KMLT, Respondent or the Company) owns and operates a petroleum liquids terminal facility located in Carteret, New Jersey. On October 12, 2011, PHMSA issued a Notice of Probable Violation, Proposed Civil Penalty and Proposed Compliance Order (NOPV or Notice) to Respondent for inspections conducted by PHMSA of Respondent's facility on November 15-19, 2010. The NOPV alleges seven (7) separate violations, three (3) of which concern recordkeeping. The NOPV also contains a proposed Compliance Order outlining requested actions for alleged violation Items 1 - 7. Finally, the NOPV proposes a total civil penalty of \$89,800, related to Items 3 - 7.

It is Respondent's intention to undertake the corrective actions requested in the NOPV, and many of those actions are either already completed or in progress. We believe that a number of the alleged violations should either be withdrawn or converted to Warning Items, however, because the Company either did have the relevant information or had taken the required actions as of the time of the inspection. We also request further clarification and discussion with PHMSA on how best to implement corrective action on Item 2 in the Compliance Order. In regards to the proposed penalty, Respondent respectfully requests that given the clarifications submitted in these pleadings, and in light of Respondent's cooperative and proactive response to this action, that the amount of penalty should be reduced.

I. Response to NOPV Allegations

NOPV Item 1. §195.404(a)(2): Maps and Records. Failure to maintain maps and records of the facility

PHMSA alleges that KMLT failed to maintain maps and records of the Carteret facility that included all crossings of public roads, railroads, rivers, buried utilities and foreign pipelines.

Respondent is in the process of revising and updating its alignment sheets to address the concern raised by PHMSA in NOPV Item 1. These updates will be completed in accordance with the deadline specified in PHMSA's proposed Compliance Order, if not sooner.

NOPV Item 2.

§195.404(a)(3): Maps and Records. Failure to maintain maps and records of the facility that included the maximum operating pressure (MOP) of each facility pipeline.

PHMSA alleges that KMLT failed to maintain maps and records of the Carteret facility that included the maximum operating pressure (MOP) of each pipeline.

Respondent believes that there are alternative means of addressing the concerns raised in NOPV Item 2 other than the actions set forth in Paragraph 2 of the proposed Compliance Order, and the Company requests an opportunity to discuss that issue with PHMSA at the Hearing for this matter. Respondent will submit alternative proposals for consideration in advance of the Hearing.

NOPV Item 3.

§195.402(a): Procedural manual for operations, maintenance, and emergencies. Failure to follow O&M procedures relating to qualifications of welding inspectors.

PHMSA alleges that KMLT did not follow its O&M procedure by failing to have a qualified welding inspector inspect each weld in a pipe replacement of Tank 120 line from Dock 2 Header to Tank 120, near the Pit 44 area.

Respondent did conduct extensive radiograph evaluations of this pipe replacement segment during construction activities. The Company is locating these records and will have them reviewed by a qualified inspector as requested, with a written report submitted to PHMSA by the deadline set forth in the proposed Compliance Order. In the event that complete records are not located, Respondent will perform required NDT on all welds for which records are not identified, and submit results in accordance with the deadlines specified in the proposed Compliance Order.

In light of these facts, and in consideration of the Company's cooperative response to this action, Respondent respectfully requests that the proposed penalty of \$30,500 be reduced for Item 3.

NOPV Item 4. §195.266: Construction records. Failure to produce records concerning pipe construction.

PHMSA alleges that at the time of the inspection, KMLT did not produce any records or documentation concerning piping construction to Tank 100-4 and Tank 100-5 that was completed in August 2010.

Respondent notes that this was an in-kind pipe replacement project (the same type of pipe in the same location); it was not new construction. The pipe was being replaced to provide new coating, in lieu of an older bonded coating that had outlived its utility. The Company also notes that not all elements of Part 195.266 apply to terminal piping (e.g., 'depth of cover' is not applicable to above ground pipe). Nonetheless, Respondent is in the process of updating its records to address the concern raised by PHMSA in NOPV Item 4, and will provide PHMSA with copies of the relevant records on or before the deadline specified in Paragraph 4 of PHMSA's proposed Compliance Order.

In light of these facts, and in consideration of the Company's cooperative response to this action, Respondent respectfully requests that the proposed penalty of \$10,500 be reduced for Item 4.

NOPV Item 5. §195.412(b): Inspection of rights-of-way and crossings under navigable waters. Failure to adequately inspect depth of cover on Line 1206.

PHMSA alleges that during a 2008 water crossing inspection, KMLT failed to adequately inspect Line 1206 which runs under the Rahway River, a navigable waterway, to determine the condition of the crossing.

As a preliminary matter, Respondent notes that PHMSA appears to have made a factual error in its reference to Line 1206. The Rahway River crossing at issue is Line 1201. As for the substantive issues set forth in the NOPV, during the 2008 inspection, Respondent's contractor was unable to fully utilize the Line Locator radio detection equipment necessary to detect depth of cover below the water surface. As an alternative, the contractor elected to put divers in the water and utilize a manual six-foot sweep probe to conduct inspection of the entire crossing area. This inspection verified

that the line had at least six feet of cover. This inspection method fully complies with the requirements of Part 195.412, and thus Respondent believes PHMSA's allegation with regard to this issue is in error. Respondent will submit additional materials supporting this position in advance of a hearing in this matter.

In addition, Respondent conducted an additional inspection of the crossing in May and July 2011, using the Line Locator instrument. This inspection verified that the line continues to exceed depth-of-cover requirements. The Company has therefore already satisfied the requirement of Paragraph 5 of PHMSA's proposed Compliance Order. Finally, Respondent respectfully submits that depth of cover requirements (Part 195.248) are a construction standard, not included within the five-year inspection requirements of Part 195.412. Nonetheless, Respondent has in fact regularly inspected this water crossing for depth of cover, and confirmed that the original construction standards remain in effect.

In light of the foregoing facts, and in consideration of the Company's cooperative response to this action, Respondent respectfully requests that this item and its corresponding penalty of \$26,700 be withdrawn or reduced to a Warning Item.

NOPV Item 6.

§195.555: What are the qualifications for supervisors? Failure to verify that supervisor maintained knowledge of corrosion control procedures.

PHMSA alleges that KMLT failed to verify that the supervisor maintained thorough knowledge of that portion of the corrosion control procedure established under Part 195.402(c)(3) for which they are responsible.

Respondent is addressing the issues set forth in Item 6 of the NOPV, and the required actions will be completed by the deadline specified in Paragraph 6 of PHMSA's proposed Compliance Order.

NOPV Item 7.

§195.585(a)(1.): What must I do to correct corroded pipe? Failure to take corrective action regarding potential corroded pipe.

PHMSA alleges that KMLT failed to take corrective action with respect to 2009 atmospheric corrosion survey data showing twenty one (21) indications on its aboveground pipelines that measured above 50% wall loss.

Respondent performed RSTRENG calculations at the time of the 2009 atmospheric corrosion survey, which indicated that the piping had remaining strength greater than 285 psi, well below MOP for these segments. Copies of these calculations have not been located to date. As a result, Respondent has tasked a licensed P.E. on its staff to recalculate the remaining pipe strength on the segments at issue and shall submit the results of this analysis prior to the hearing in this matter.

In light of the foregoing facts, and in consideration of the Company's cooperative response to this action, Respondent respectfully requests that this item and its corresponding penalty of \$11,600 be withdrawn or reduced to a Warning Item.

II. Response to Proposed Civil Penalty

As set forth above, Respondent maintains that the allegations set forth in Item 5 of the NOPV were in error and requests that the Item and its corresponding penalty of \$26,700 either be withdrawn or converted to a Warning Item. In addition, as for Items 3, 4 and 7, Respondent has responded cooperatively and proactively to the issues noted in the NOPV, and requests that the penalty in these counts be reduced.

III. Response to Proposed Compliance Order

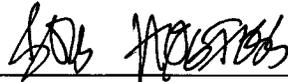
Respondent requests further dialogue with PHMSA with regard to Item 2 of the NOPV and the prescribed actions set forth in Paragraph 2 of the proposed Compliance Order. With respect to the remaining Items alleged in the NOPV, Respondent has either completed all actions requested by the Proposed Compliance Order that accompanied the NOPV, or has already begun corrective action that will be completed by the deadlines contained in the proposed Compliance Order, if not sooner. Information documenting such actions has been or will be provided to PHMSA in accordance with the Proposed Compliance Order.

IV. Summary and Requested Relief

For the reasons set forth in the above Response to the NOPV, and in light of Respondent's cooperative response to this action, the Company respectfully requests that PHMSA convert to Warning Items those Items where the Company has either completed all actions requested by the Proposed Compliance Order that accompanied the NOPV, or has already begun corrective action that will be completed by the deadlines contained in the proposed Compliance Order. Respondent also requests further dialogue with PHMSA with regard to Item 2 of the NOPV and the prescribed actions set forth in Paragraph 2 of the proposed Compliance Order. In addition, Respondent maintains that the allegations set forth in Item 5 of the NOPV were in error and requests that the Item and its corresponding penalty of \$26,700 either be withdrawn or converted to a Warning Item. As for Items 3, 4 and 7, Respondent has responded

cooperatively and proactively to the issues noted in the NOPV, and requests that the penalty in these counts be reduced. In support of these requests, Respondent shall submit further documentation in advance of the Hearing.

Respectfully submitted,



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