



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

1200 New Jersey Ave, S.E.
Washington, D.C. 20590

MAR 4 2010

Mr. Richard D. Kinder
Chairman and Chief Executive Officer
Kinder Morgan Energy Partners, L.P.
One Allen Center
500 Dallas Street, Suite 1000
Houston, TX 77002

Re: CPF No. 5-2008-5042

Dear Mr. Kinder:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$35,000. This is to acknowledge receipt of your payment of the full penalty amount, by wire transfer, dated November 12, 2008. This enforcement action is now closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese
for: Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Chris Hoidal, Director, Western Region, PHMSA

Mr. Ron McClain, Vice President, Engineering & Operations
Kinder Morgan Energy Partners, L.P.
500 Dallas Street
Houston, TX 77002

CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7009 1410 0000 2472 5149]

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

_____))
In the Matter of))
))
Kinder Morgan Energy Partners,))
L.P.,))
))
Respondent.))
_____)

CPF No. 5-2008-5042

FINAL ORDER

From May 12 to 16, 2008, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of Kinder Morgan Energy Partners, L.P. (Kinder Morgan or Respondent) in Fairfield, California, Sparks, Nevada, and Fallon, Nevada. The inspection covered portions of Kinder Morgan's SFPP system, a hazardous liquid pipeline system that transports refined petroleum products through several western and southwestern states, including California, Nevada, Oregon, Arizona, and Texas.¹

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated October 15, 2008, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Kinder Morgan had violated 49 C.F.R. § 195.505(b)-(c) and proposed assessing a civil penalty of \$ 35,000 for the alleged violation.

Respondent responded to the Notice by letter dated (Response). Kinder Morgan did not contest the allegations of violation and paid the proposed civil penalty of \$ 35,000, as provided in 49 C.F.R. § 190.227. Payment of the penalty serves to close the case with prejudice to Respondent.

FINDING OF VIOLATION

In its Response, Kinder Morgan did not contest the allegation in the Notice that it violated 49 C.F.R. Part 195, as follows:

¹ http://www.kindermorgan.com/business/products_pipelines/sfpp.cfm.

Item 1: The Notice alleged that Respondent violated 49 C.F.R. §195.505(b)-(c), which states:

§ 195.505 Qualification Program.

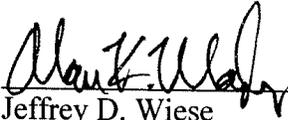
Each operator shall have and follow a written qualification program. The program shall include provisions to:

- (a) . . .
- (b) Ensure through evaluation that individuals performing covered tasks are qualified;
- (c) Allow individuals that are not qualified pursuant to this subpart to perform a covered task if directed and observed by an individual that is qualified;

The Notice alleged that Kinder Morgan violated 49 C.F.R. § 195.505(b)-(c) by failing to ensure that an individual performing a covered task was qualified or to require that another qualified individual observe an unqualified individual performing a covered task. In particular, the Notice alleged that the aerial pilot performing inspections of Respondent's pipeline right-of-way (ROW) did so without proper qualifications from January to May 2008, i.e., even though the pilot's qualification had expired on December 31, 2007, he continued to perform inspections on his own until the date of the OPS inspection.² Kinder Morgan did not contest this allegation of violation and stated that it had reviewed the status of the other pilots performing similar inspections to ensure that their qualifications were still valid. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.505(b)-(c) by failing to ensure that an individual performing a covered task was qualified or having another qualified individual observe that individual while performing a covered task.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

The terms and conditions of this Final Order are effective upon receipt of service.

for = 
 Jeffrey D. Wiese
 Associate Administrator
 for Pipeline Safety

MAR 4 2010

Date Issued

² The Notice indicates that Kinder Morgan qualified the individuals performing aerial inspections of the SFPP ROW shortly after the OPS inspection.