



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 CIVIL PENALTY**

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

October 15, 2008

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

CPF 2-2008-5042

Dear Mr. McClain:

On May 12-16, 2008, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code, inspected your Operations and Maintenance Procedural Manuals and supportive implementation records in Fairfield, California and Sparks, Nevada. Our representatives also inspected your pipeline facilities, LS-13 between the CA-NV State line and Sparks, Nevada, and LS-55 between Sparks and Fallon, Nevada.

As a result of the inspection, it appears that Kinder Morgan Energy Partners, L.P. (KM) have committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The item inspected and the probable violation is:

1. **§195.505 Qualification program**
 - (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**

Kinder Morgan Energy Partners, L.P. did not use qualified personnel to conduct a key covered task. Right-of-Way (ROW) inspection is a covered task. Kinder Morgan is using aerial surveillance to inspect its ROW, therefore the pilot or individual inspecting the ROW needs to be qualified or be directed and observed by an individual who is qualified. The pilot, Mr. Roderick Shannon, was inspecting the ROW alone and his qualification expired on 12/31/2007. Mr. Shannon continued his inspections KM pipeline facilities from January to May 2008.

The ISNETWORLD OQ Report supplied by Kinder Morgan shows Mr. Shannon was qualified on 10/15/2004 and his qualification expired on 12/31/2007. Also, Mr. Shannon's aerial reports supplied by Kinder Morgan indicate he continued unqualified ROW inspections from 1/9/2008 to 5/12/2008. The report for 5/12/2008 was not available at the time of this inspection, but we were informed that a ROW patrol was done that day.

Kinder Morgan's contractor, Mr. Shannon, inspected the following pipelines during the period when he was not properly qualified per Federal regulations:

<u>Line Section</u>	<u>From</u>	<u>To</u>	<u>Number of Inspections wo/OQ</u>
11	Rocklin CA	Colfax CA	15
12	Colfax CA	CA-NV Line	15
13	CA-NV Line	Reno Terminal	15
55	Reno Terminal	Fallon	15

We understand that the personnel conducting ROW patrols were requalified shortly after our inspection.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation and has recommended that you be preliminarily assessed a civil penalty of \$35,000.00 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$35,000.00

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 5-2008-5042** 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

cc: PHP-60 Compliance Registry
PHP-500 H. Monfared (#121147)

Enclosure: *Response Options for Pipeline Operators in Compliance Proceedings*