

Mr. Ronald P. McClain  
Vice President, Operations  
Plantation Pipe Line Company  
1100 Alderman Drive, Suite 200  
Alpharetta, Georgia 30005

**RE: CPF No. 2-2004-5011**

Dear Mr. McClain:

Enclosed is the Final Order issued by Pipeline and Hazardous Materials Safety Administration in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$5,000. I acknowledge receipt of Plantation's payment of \$5,000 in satisfaction of the civil penalty assessed in the Final Order. This case is now closed. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

Enclosure

cc: Linda Daugherty, Director, Southern Region, PHMSA

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

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

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<b>In the Matter of</b>	)	
	)	
<b>Plantation Pipe Line Company,</b>	)	<b>CPF No. 2-2004-5011</b>
	)	
<b>Respondent.</b>	)	
	)	

**FINAL ORDER**

Between April and June 2003, pursuant to 49 U.S.C. § 60117, a representative of the Research and Special Programs Administration (RSPA)<sup>1</sup>, Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of Plantation Pipe Line Company (Plantation or Respondent) in its Alabama, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee operating areas. Plantation, now owned by Kinder Morgan Energy Partners and ExxonMobil Corporation, operates a 3,100-mile refined petroleum products pipeline from Louisiana to Washington, D.C. As a result of the inspection, the Director, Southern Region, OPS (Director), issued to Respondent, by letter dated April 23, 2004, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had committed certain violations of 49 C.F.R. Part 195 and assessing a civil penalty of \$5,000 for the alleged violations. The Notice also proposed finding that Respondent had committed certain other probable violations of 49 C.F.R. Part 195 and warning Respondent to take appropriate corrective actions to address them or be subject to future enforcement action.

Plantation responded to the Notice by letter dated May 26, 2004 (Response). It did not contest the charge giving rise to the civil penalty and sent a wire transfer in the amount of \$5,000. In its Response, Plantation provided information regarding the various allegations and the corrective

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<sup>1</sup>Effective February 20, 2005, the Pipeline and Hazardous Materials Safety Administration (PHMSA) was created to ensure safety in pipeline and hazardous materials transportation. See, Section 108 of the Norman Y. Mineta Research and Special Programs Improvement Act (Public Law 108-426, 118 Stat. 2423-2429 (November 30, 2004)). See also, 70 Fed. Reg. 8299 (February 18, 2005), re delegating the pipeline safety functions of the Research and Special Programs Administration to PHMSA.

actions it had taken. Respondent did not request a hearing and therefore has waived its right to one.

### **FINDING OF VIOLATION**

Pursuant to 49 U.S.C. § 60122 and 49 C.F.R. §§ 190.209(a)(1) and 190.213, I find that Respondent violated 49 C.F.R. Part 195, as follows:

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 195.416 (c), which states:

#### **§ 195.416 External corrosion control.**

(a) ....

(c) Each operator shall, at intervals not exceeding 2½ months, but at least six times each calendar year, inspect each of its cathodic protection rectifiers.<sup>2</sup>

The Notice alleged that Respondent did not take any readings for rectifier MD-01, located at the east end of the Baton Rouge Division office, from January 26, 2001 to July 24, 2001. The interval between the readings was 5 months and 29 days.

In its Response, Plantation did not contest the violation but contended that the missed reading was an isolated event out of more than 290 rectifier readings on its system. This may or may not be true, but Respondent is still obligated under § 195.416(c) to check all rectifiers at intervals not exceeding two-and-one-half months. The regulation does not permit *de minimus* exceptions. At the inspection, Respondent acknowledged that the rectifier was inoperable. Accordingly, having considered all of the evidence, I find that Respondent violated 49 C.F.R. § 195.416(c) by failing to take readings for rectifier MD-01 within the required inspection interval.

### **ASSESSMENT OF PENALTY**

Under 49 U.S.C. § 60122, Respondent is subject to a civil penalty not to exceed \$100,000 per violation for each day of the violation, up to a maximum of \$1,000,000 for any related series of violations.

49 U.S.C. § 60122 and 49 C.F.R. § 190.225 require that, in determining the amount of the civil penalty, I consider the following criteria: nature, circumstances, and gravity of the violation, including adverse impact on the environment; degree of Respondent's culpability, the history of Respondent's prior offenses, Respondent's ability to pay the penalty, and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in

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<sup>2</sup> At the time of the inspection in 2001, 49 C.F.R. § 195.416(c) set forth the applicable requirements for external corrosion control. This section was superseded by the adoption of 49 C.F.R. §195.573(c), which became effective January 28, 2002. See, Controlling Corrosion on Hazardous Liquid and Carbon Dioxide Pipelines, 66 Fed. Reg. 67004 (Dec. 27, 2001) (codified at 49 C.F.R. § 195.573(c)).

attempting to comply with pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require.

**Item 1** of the Notice proposed a civil penalty of \$5,000 for Respondent's violation of 49 C.F.R. § 195.416(c), regarding Plantation's failure to take readings for rectifier MD-01, located at the east end of the Baton Rouge Division office, from January 26, 2001 to July 24, 2001. Regular inspections of rectifiers are an essential component of an operator's pipeline safety program. Failure to properly monitor cathodic protection rectifiers can result in inadequate protection of the pipe, resulting in leaks and an increased risk of harm to life, property and the environment. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,000, which Respondent has already remitted to PHMSA.

### WARNING ITEMS

With respect to Items 2 and 3, the Notice alleged probable violations of Part 195 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 195.403(b)(1) (Notice Item 2) — Plantation's alleged failure to review, within the required interval, the performance of several employees in accordance with the company's emergency response training program; and

49 C.F.R. § 195.420(b) (Notice Item 3) — Plantation's alleged failure to inspect, within the required interval, each mainline valve to determine that it was functioning properly.

Plantation presented information in its Response indicating that it had taken certain actions to address the cited warning items. Having considered such information, I find, pursuant to 49 C.F.R. § 190.205, that probable violations of 49 C.F.R. § 195.403(b)(1) (Notice Item 2) and 49 C.F.R. § 195.420(b) (Notice Item 3) occurred as of the date of the inspection. Plantation is hereby advised to review and correct such conditions. In the event that OPS finds a violation for any of these items in a subsequent inspection, Plantation may be subject to future enforcement action.

The terms and conditions of this Final Order shall be effective upon receipt.

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Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

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Date Issued