

JULY 23, 2013

Mr. F. William Grube
Chief Executive Officer
Calumet GP, LLC
2780 Waterfront Parkway East Drive
Suite 200
Indianapolis, Indiana 46214

Re: CPF No. 3-2012-6003

Dear Mr. Grube:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and specifies actions that need to be taken by your limited partnership, Calumet Specialty Products Partners, LP, to comply with the pipeline safety regulations. When the terms of the compliance order have been completed, as determined by the Director, Central Region, this enforcement action will be 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
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. David Barrett, Director, Central Region, OPS
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS
Mr. Timothy Barnhart, Vice President of Operations, Calumet GP, LLC

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

In the Matter of)

Calumet Specialty Products Partners, LP,)

Respondent.)

CPF No. 3-2012-6003

FINAL ORDER

On April 4-5, 2011, 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 records and pipeline integrity management program (IMP) of Murphy Oil USA (Murphy) in Superior, Wisconsin. On September 30, 2011, Calumet Specialty Products Partners, LP (Calumet or Respondent), acquired Murphy's Superior, Wisconsin refinery and associated assets, including the pipeline that is the subject of this Final Order. Calumet is a refiner and processor of specialty hydrocarbon products with operations in Illinois, Louisiana, Missouri, Pennsylvania, Texas, and Wisconsin.¹ Its Superior, Wisconsin refinery receives crude oil by pipeline and produces transportation fuels and paving asphalt.² The associated PHMSA-regulated pipeline system contains nearly six miles of steel pipeline and three breakout tanks.³

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Calumet, by letter dated December 28, 2012, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Calumet, as successor-in-interest of Murphy, had committed various violations of 49 C.F.R. § 195.452 and proposed ordering Respondent to take certain measures to correct the alleged violations.

Calumet responded to the Notice by letter dated January 21, 2013 (Response). The company did not contest the allegations of violation but provided information concerning the corrective actions it had taken. The company did not request a hearing and therefore has waived its right to one.

¹ Calumet, About Calumet Specialty Products Partners, *available at* <http://www.calumetspecialty.com/About/AboutCalumet.aspx> (last accessed June 12, 2013).

² Calumet, Manufacturing: Superior, Wisconsin, *available at* <http://www.calumetspecialty.com/Manufacturing/Superior.aspx> (last accessed June 12, 2013).

³ Calumet Superior, LLC, Annual Report for Calendar Year 2012 Hazardous Liquid Pipeline Systems, PHMSA Report No. 20130084-11780 (May 20, 2013) (on file with PHMSA), at 7-9.

FINDINGS OF VIOLATION

In its Response, Calumet did not contest the allegations in the Notice that it violated 49 C.F.R. Part 195, as follows:⁴

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(f)(1), which states:

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(f) *What are the elements of an integrity management program?* An integrity management program begins with the initial framework. An operator must continually change the program to reflect operating experience, conclusions drawn from results of the integrity assessments, and other maintenance and surveillance data, and evaluation of consequences of a failure on the high consequence area. An operator must include, at minimum, each of the following elements in its written integrity management program:

(1) A process for identifying which pipeline segments could affect a high consequence area;

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(f)(1) by failing to include in its written IMP a process for identifying which of its pipeline segments could affect high consequence areas (HCAs).⁵ Specifically, the Notice alleged that Murphy’s IMP had inadequately identified pipeline segments that “could affect” HCAs because it had considered potential spills from only two points along the pipeline, that the IMP lacked sufficient descriptions of the spill coverage areas for those points, that the program lacked a map showing potential releases on overland, water, and combination transports for all areas along the pipeline, and that it had failed to consider the effects of breakout tanks on spill volumes.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(f)(1) by failing to include in its written IMP a process for identifying which pipeline segments could affect HCAs.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(i)(3), which states:

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(i) *What preventive and mitigative measures must an operator take to protect the high consequence area?* —(1)

(3) *Leak detection.* An operator must have a means to detect leaks on its pipeline system. An operator must evaluate the capability of its leak

⁴ The Notice alleged that Murphy had committed the violations set forth below, as of the date of the inspection. In its Response, Calumet did not object to the issuance of the Notice to Calumet as Murphy’s successor, presumably because Calumet had assumed operational control of the facilities that are the subject of this Order and had been re-assigned Murphy’s “Operator Identification Number” by PHMSA as of such date.

⁵ “High Consequence Areas” are defined as commercially navigable waterways, high population areas, other populated areas, and unusually sensitive areas. *See* 49 C.F.R. § 195.450.

detection means and modify, as necessary, to protect the high consequence area. An operator's evaluation must, at least, consider, the following factors—length and size of the pipeline, type of product carried, the pipeline's proximity to the high consequence area, the swiftness of leak detection, location of nearest response personnel, leak history, and risk assessment results.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(i)(3) by failing to evaluate the capability of its pipeline leak detection system to detect leaks that could affect HCAs. Specifically, the Notice alleged that Murphy did not perform an adequate evaluation of its leak detection system. The company's leak detection system merely signaled a leak when a pressure reading at one particular point reached 10 psig.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(i)(3) by failing to evaluate the capability of its pipeline leak detection system to detect leaks that could affect HCAs.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(i)(4), which states:

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(i) *What preventive and mitigative measures must an operator take to protect the high consequence area? —(1)*

(4) *Emergency Flow Restricting Devices (EFRD).* If an operator determines that an EFRD is needed on a pipeline segment to protect a high consequence area in the event of a hazardous liquid pipeline release, an operator must install the EFRD. In making this determination, an operator must, at least, consider the following factors—the swiftness of leak detection and pipeline shutdown capabilities, the type of commodity carried, the rate of potential leakage, the volume that can be released, topography or pipeline profile, the potential for ignition, proximity to power sources, location of nearest response personnel, specific terrain between the pipeline segment and the high consequence area, and benefits expected by reducing the spill size.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(i)(4) by failing to properly determine whether EFRDs were needed on a pipeline segment to protect an HCA in the event of a release. Specifically, the Notice alleged that Murphy had not adequately considered the relevant factors in making such a determination. Instead, it had merely completed an EFRD study determining that check valves were impractical because the pipeline was bi-directional. That study did not consider using other types of EFRDs, nor how the system's three breakout tanks could affect the volume of product released during a leak.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(i)(4) by failing to properly determine whether EFRDs were needed on a pipeline segment to protect an HCA in the event of a release.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(j)(2), which states:

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(j) *What is a continual process of evaluation and assessment to maintain a pipeline's integrity? —(1)*

(2) *Evaluation.* An operator must conduct a periodic evaluation as frequently as needed to assure pipeline integrity. An operator must base the frequency of evaluation on risk factors specific to its pipeline, including the factors specified in paragraph (e) of this section. The evaluation must consider the results of the baseline and periodic integrity assessments, information analysis (paragraph (g) of this section), and decisions about remediation, and preventive and mitigative actions (paragraphs (h) and (i) of this section).

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(j)(2) by failing to conduct a periodic evaluation as frequently as needed to assure pipeline integrity, based on all relevant risk factors and results of the baseline and integrity assessments, information analysis, and decisions about remedial, preventive, and mitigative actions. Specifically, the Notice alleged that Murphy had not performed an adequate evaluation because it had not properly accounted for the use of hydrostatic testing as its sole integrity assessment method. In addition, an adequate evaluation would have considered other risk factors, including corrosion and the potential for third-party damage.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(j)(2) by failing to conduct a periodic evaluation as frequently as needed to assure pipeline integrity, based on all relevant risk factors and results of integrity assessments, information analysis, and decisions about remedial, preventive, and mitigative actions.

Item 5: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(k), which states:

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(k) *What methods to measure program effectiveness must be used?* An operator's program must include methods to measure whether the program is effective in assessing and evaluating the integrity of each pipeline segment and in protecting the high consequence areas. See Appendix C of this part for guidance on methods that can be used to evaluate a program's effectiveness.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(k) by failing to include methods in its IMP to measure whether the program had effectively assessed and evaluated the integrity of each pipeline segment and protected HCAs. Specifically, the Notice alleged that Murphy had not developed methods to measure whether its IMP was effective.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(k) by failing to include methods in its IMP to measure whether the program had effectively assessed and evaluated the integrity of each pipeline segment and protected HCAs.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1, 2, 3, 4, and 5 in the Notice for violations of 49 C.F.R. § 195.452(f)(1), (i)(3), (i)(4), (j)(2), and (k), respectively. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 195.452(f)(1) (**Item 1**), Respondent must determine which pipeline segments could affect HCAs along the entire pipeline route. Respondent's analysis must consider features that affect transport, including ground slope, ditches, and storm sewers. It must also consider leak volumes along the right-of-way and the effects of Respondent's tank farm. Respondent must develop maps showing overland transport, water transport, or combination overland and water transport for all areas along the pipeline.
2. With respect to the violation of § 195.452(i)(3) (**Item 2**), Respondent must develop a plan to evaluate and improve its leak detection system and a schedule to implement that plan.
3. With respect to the violation of § 195.452(i)(4) (**Item 3**), Respondent must review and document the potential benefits of remotely controlled valves, other than check valves. Its review must consider breakout tanks and the tanks' effects contributing to spill quantities.
4. With respect to the violation of § 195.452(j)(2) (**Item 4**), Respondent must perform evaluations to address threats on its pipeline and propose additional preventative and mitigative actions.
5. With respect to the violation of § 195.452(k) (**Item 5**), Respondent must develop procedures to measure its IMP's effectiveness. It must apply those procedures to determine if it should take additional actions to ensure the integrity of applicable pipeline segments.
6. Respondent must submit a plan and schedule to perform compliance Items 1-5 to the Director within 30 days of receipt of this Final Order. This plan will require

approval of the Director.

7. PHMSA requests that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. PHMSA requests that Respondent report these costs in two categories: (1) total cost associated with preparation and revision of plans, procedures, studies, and analyses; and (2) total cost associated with replacements, additions, and other changes to pipeline infrastructure.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000 for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued