



October 5, 2009

VIA FEDERAL EXPRESS

Mr. Jeffrey D. Wiese  
Associate Administrator for Pipeline Safety  
U.S. DOT Pipeline and Hazardous Materials Safety Administration  
1200 New Jersey Ave., SE  
Washington, DC 20590

OCT 09 2009

**RE: Kinder Morgan, Inc. CPF No. 5-2007-1008 – Petition for Reconsideration**

Dear Mr. Wiese:

Kinder Morgan, Inc. (Kinder Morgan) received the Final Order in the above-referenced case on September 11, 2009. On September 21, 2009, Kinder Morgan requested an extension to petition for reconsideration until October 16, 2009. This submission serves as Kinder Morgan's petition for reconsideration under 49 C.F.R. § 190.215.

Item 1 of the Final Order relates to an alleged violation of 49 CFR 192.905(a) by Kinder Morgan by failing to follow its own procedures in identifying High Consequence Areas (HCAs). PHMSA states on page 7 in the Assessment of Penalty:

With regard to Item 1, Kinder Morgan has not presented any persuasive basis for reducing or eliminating the proposed civil penalty. Respondent failed without justification to follow its own written procedure and that failure led to a "significant" under-reporting of the HCAs that could be affected by the operation of the company's pipeline system. If left uncorrected, such an error would diminish the effectiveness of the other risk-based requirements imposed by the IMP regulations and "create a potential threat to public safety." (Emphasis Added)

Kinder Morgan Response:<sup>1</sup>

Kinder Morgan does not perform integrity tests by isolating and testing only HCAs. Kinder Morgan tests the entire line segments and applies the same requirements for anomaly inspections and repairs in and out of the HCA areas. This Kinder Morgan procedure greatly increases public safety overall. At the time of the inspection in August 2006, Kinder Morgan field personnel were performing the annual review of HCA locations and recording their boundaries in conformance with the requirements of Kinder Morgan O&M 220. The consequence of performing that annual requirement was an increase of HCA mileage from 851 miles in 2006 to 969 miles in 2007, representing a 14% increase. The document demonstrating this increase in mileage is enclosed with this correspondence and located in Appendix A.

Importantly, of the 118 miles of additional miles of HCA added during the annual review there were only 1.13 miles of new HCA that were identified that did not already have an integrity assessment scheduled to cover the mileage, representing 0.12% of the total HCA mileage across Kinder Morgan's system. The document demonstrating the additional new HCAs is enclosed with this correspondence and located in Appendix B.

<sup>1</sup> By focusing on certain arguments, Kinder Morgan does not waive and specifically reserves all applicable defenses raised in its prior submittals on this matter.

Mr. Jeffrey D. Wiese  
October 8, 2009  
Page 2 of 2

Kinder Morgan disagrees with PHMSA's statement that: "*Kinder Morgan failed without justification to follow Kinder Morgan's own procedure*" to the extent that it implies that Kinder Morgan did not identify any HCAs in conformance with our procedure. Rather, only isolated pockets of Kinder Morgan field operations personnel failed to correctly apply Kinder Morgan's procedure in their efforts to define the boundaries of specific HCA types. The reality is that 86 % of the time (all but 14% of the time) the procedure was followed correctly and the boundaries of the HCAs were correctly identified.

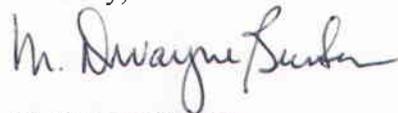
Moreover, Kinder Morgan disagrees with PHMSA's statement: "*That failure led to a significant underreporting of the HCAs.*" Kinder Morgan contends that 14% is not a "*significant*" increase especially in light of the fact that all but 0.13% of those miles would have been scheduled for inspection with the HCA of record.<sup>2</sup>

Finally, Kinder Morgan disagrees with PHMSA's statement: "*If left uncorrected, such an error would diminish the effectiveness of the other risk-based requirements imposed by the IMP regulations and create a potential threat to public safety.*" Kinder Morgan was in the process of performing our annual review of HCAs at the time of the inspection and would have discovered both the errors in mileage and the errors in identifying the 1.13 miles of additional HCAs during our own review. At no time did our program "*create a potential threat to public safety.*"

Therefore, for the reasons stated above, Kinder Morgan requests that the following inaccurate language be stricken from the Final Order: "*Respondent failed without justification to follow its own written procedure and that failure led to a "significant" under-reporting of the HCAs that could be affected by the operation of the company's pipeline system. If left uncorrected, such an error would diminish the effectiveness of the other risk-based requirements imposed by the IMP regulations and "create a potential threat to public safety."*" Kinder Morgan further requests that the proposed fine be reduced consistent with the facts and that the temporary oversight was not "*significant*" and did not at any time pose or "*create a potential threat to public safety.*"

If you have any questions or concerns related to this request, please don't hesitate to call me or Mr. Bruce Hancock, Director of Compliance / Codes and Standards at 303-914-7959. Thank you for your consideration.

Sincerely,



M. Dwayne Burton  
Vice President, Gas Pipeline Operations and Engineering  
Office (713) 369-9356

MDB/dts  
Enclosures

c: Mr. Chris Hoidal, Director, Western Region, PHMSA, Lakewood, Colorado

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<sup>2</sup> Merriam Webster's dictionary defines "Significant" as "a noticeable or measurably large amount."

## Appendix A

Kinder Morgan HCA comparison of HCAs  
12/31/05 vs. 10/27/07

<u>Operator</u>	<u>12/31/05 Mileage</u>	<u>10/27/07 Mileage</u>
KMIGT	15.7	15.9
NGPL	480.4	512.4
KMTP	177.9	221.3
TEJAS	175.5	215.8
Trailblazer	.9	1.8
Trans Colorado	.4	.5
<u>KMNTP</u>	<u>.5</u>	<u>1.9</u>
Total	851.3	969.6