

June 15, 2021

Mr. Joseph Blount
President and Chief Executive Officer
Colonial Pipeline Company
1185 Sanctuary Parkway
Suite 100
Alpharetta, Georgia 30009

CPF No. 2-2021-005-NOPSO

Dear Mr. Blount:

Enclosed please find a Consent Order incorporating the terms of the Consent Agreement between the Pipeline and Hazardous Materials Safety Administration (PHMSA) and Colonial Pipeline Company which was executed on June 4, 2021. Service of the Consent Order and Consent Agreement by electronic mail is deemed effective upon the date of transmission, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure: Order and Consent Agreement

cc: Mr. James Urisko, Director, Southern Region, Office of Pipeline Safety, PHMSA
Mr. Mark Piazza, Manager, Pipeline Compliance and R&D, Colonial Pipeline Company
Ms. Catherine Little, Troutman Pepper, Counsel for Colonial Pipeline Company

CONFIRMATION OF 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)	
)	
Colonial Pipeline Company,)	CPF No. 2-2021-005-NOPSO
)	
Respondent.)	
_____)	

CONSENT ORDER

By letter dated March 29, 2021, the Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety, issued a Notice of Proposed Safety Order (Notice) to Colonial Pipeline Company (Colonial or Respondent).

In accordance with 49 C.F.R. § 190.239, the Notice alleged that conditions existed on Respondent’s pipeline system that posed a pipeline integrity risk to public safety, property, or the environment and that the conditions potentially exist throughout the Colonial Pipeline System. The Notice proposed that Respondent take certain corrective measures to remedy the alleged conditions and ensure that the public, property, and the environment are protected from the potential risk.

On April 9, 2021, pursuant to 49 C.F.R. § 190.239(b)(2), Colonial responded to the Notice by submitting a request for an informal consultation, whereupon the parties engaged in good-faith discussions that resulted in the Consent Agreement attached to this Order that settles all of the allegations in the Notice.

Accordingly, the Consent Agreement is hereby approved and incorporated by reference into this Order. Colonial is hereby ordered to comply with the terms of the Consent Agreement, effective immediately.

Pursuant to 49 U.S.C. 60101, *et seq.*, failure to comply with this Consent Order may result in the assessment of civil penalties as set forth in 49 C.F.R. § 190.223.

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

June 15, 2021

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued

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

In the Matter of)	
)	
Colonial Pipeline Company,)	CPF No. 2-2021-005-NOPSO
)	
Respondent.)	
)	

CONSENT AGREEMENT

On March 29, 2021, pursuant to 49 C.F.R. § 190.239, the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS or Agency), issued a Notice of Proposed Safety Order (Notice) to Colonial Pipeline Company (Colonial or Respondent). The Notice alleged that conditions existed on Respondent’s pipeline system that posed a pipeline integrity risk that could potentially affect public safety, property, or the environment and that the conditions potentially exist throughout the Colonial Pipeline System.

Specifically, the Notice alleged that on August 14, 2020, a Colonial employee was notified by a local resident of a possible leak in Colonial’s right-of-way (ROW), approximately 100 feet north (downstream) of Huntersville-Concord Road in Huntersville, North Carolina. Upon inspection, a Colonial employee confirmed a product release visible at the ground surface that was believed to be gasoline (the Failure). The Colonial Control Center initiated a shutdown of its pipeline facilities in the area (Lines 1 and 2). Colonial notified the National Response Center (NRC) of the release (NRC Report No. 1284598) on August 14, 2020, reporting an estimated release volume of 75 barrels of gasoline. On August 15, 2020, Colonial identified the leak source to be Line 1 (gasoline service) and restarted Line 2 the same day.

Colonial determined the leak originated from under a Type A sleeve repair installed in 2004, originally intended to reinforce and protect a shallow dent identified by an integrity assessment. The pipeline was initially repaired on August 19, 2020, by installing a Type B pressure containing sleeve over the prior Type A sleeve repair. Colonial restarted Line 1 on August 19, 2020, after initial repairs were completed. On September 13, 2020, Colonial submitted an initial accident report (PHMSA Form 7000.1) to PHMSA that updated the estimated release volume to 6,490 barrels of gasoline. On November 10, 2020, Colonial cut out the Type B sleeve which contained the failed section of pipe and additional sections of Line 1 on either side of the Type B sleeve repair. The cut-out section of pipe was sent to an independent laboratory for metallurgical analysis. The cut-out and welding of the replacement pipeline tie-in was witnessed by PHMSA.

Upon identification and confirmation of the release and potential soil contamination, Colonial initiated monitoring and remediation efforts, which included installation of 167 wells (81 monitoring wells, 50 recovery wells, 11 hydraulic control wells, and 25 air sparge system wells) between August 27, 2020 and January 16, 2021. The released gasoline penetrated the soil and affected the ground water in the area.¹

On February 1, 2021, Colonial submitted a supplemental report to PHMSA updating the estimated release volume to 28,571 barrels (1.2 million gallons) of gasoline. Colonial's metallurgical analysis was received by PHMSA on March 19, 2021. The analysis identifies the primary crack growth mechanism as corrosion fatigue. At this time, Colonial has not provided any other supplemental 7000.1 reports to PHMSA regarding the estimated release volume due to the Failure.

Colonial has experienced several other accidents that were not detected by its leak detection system or by Colonial personnel. For example, on September 21, 2015, a reportable accident occurred on Colonial's Line 4 hazardous liquid pipeline in Centreville, Virginia, resulting in the release of approximately 95 barrels (4,000 gallons) of gasoline. Colonial was notified by the Fairfax County Fire Marshall of a sheen on a retention pond in close proximity to Colonial's Line 4 ROW. The cause of the leak was determined to be a crack that formed in a shallow dent on the bottom side of the pipe. In February 2016, Colonial experienced a failure in Gwinnett County, Georgia, that was discovered by a second-party contractor. According to Colonial documentation and reporting, the failure mode was fatigue cracks within an area where a dent was present with significant corrosion (up to 35%) under a Type A sleeve with shrink sleeves on the end that was installed in 2005. The final volume of release was reported to be approximately 14 barrels (588 gallons) of gasoline. On September 9, 2016, Colonial experienced a failure outside of Pelham, Alabama. Colonial was made aware of the suspected release by local governmental personnel. According to the final accident report dated May 6, 2019, Colonial reported an estimated volume released of 7,370 barrels (309,540 gallons) of gasoline. The failure mechanism was determined to be a crack in a buckle that formed due to inadequate compaction following a prior maintenance project.

On April 9, 2021, Colonial responded to the Notice by timely submitting a request for an informal consultation pursuant to 49 C.F.R. § 190.239(b)(2). An informal consultation was held virtually on April 30, 2021.

As a result of the informal consultation, PHMSA and Colonial (collectively, the Parties) agreed that settlement of this proceeding will avoid further administrative proceedings or litigation and will serve the public interest by promoting safety and protection of the environment. Pursuant to 49 C.F.R. Part 190, and upon consent and agreement of Colonial and PHMSA, the Parties hereby agree as follows:

¹ See <https://sr2448.colonialresponse.com/>.

I. General Provisions

1. Respondent acknowledges that as the operator of the Colonial Pipeline System in Texas, Louisiana, Mississippi, Alabama, Georgia, Tennessee, South Carolina, North Carolina, Virginia, Maryland, Delaware, Pennsylvania, New Jersey, and New York, Respondent and its Colonial Pipeline System are subject to the jurisdiction of the federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.*, and the regulations and administrative orders issued thereunder. For purposes of this Consent Agreement (“Agreement”), Respondent acknowledges that it received proper notice of PHMSA's action in this proceeding and that the Notice states claims upon which relief may be granted pursuant to 49 U.S.C. § 60101, *et seq.*, and the regulations and orders issued thereunder.

2. After Colonial returns this signed Agreement to PHMSA, the Agency’s representative will present it to the Associate Administrator for Pipeline Safety, recommending that the Associate Administrator adopt the terms of this Agreement by issuing an administrative order (Consent Order or Order) incorporating the terms of this Agreement. The terms of this Agreement constitute an offer of settlement until accepted by the Associate Administrator. Once accepted, the Associate Administrator will issue a Consent Order incorporating the terms of this Agreement.

3. Respondent consents to the issuance of the Consent Order, and hereby waives any further procedural requirements with respect to its issuance. Respondent waives all rights to contest the adequacy of notice, or the validity of the Consent Order or this Agreement, including all rights to administrative or judicial hearings or appeals, except as set forth herein.

4. This Agreement shall apply to and be binding upon PHMSA and Colonial, its officers, directors, and employees, and its successors, assigns, or other entities or persons otherwise bound by law. Respondent agrees to provide a copy of this Agreement and any incorporated work plans and schedules to all of Colonial’s officers, employees, and agents whose duties might reasonably include compliance with this Agreement.

5. This Agreement constitutes the final, complete, and exclusive agreement and understanding between the Parties with respect to the settlement embodied in this Agreement. The Parties acknowledge that there are no representations, agreements, or understandings relating to settlement other than those expressly contained in this Agreement, except that the terms of this Agreement may be construed by reference to the Notice.

6. Nothing in this Agreement affects or relieves Respondent of its responsibility to comply with all applicable requirements of the federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.*, and the regulations and orders issued thereunder. Nothing in this Agreement alters PHMSA's right of access, entry, inspection, and information gathering or PHMSA's authority to bring enforcement actions against Colonial pursuant to the federal pipeline safety laws, the regulations and orders issued thereunder, or any other provision of federal or state law.

7. For all transfers of ownership or operating responsibility of Colonial’s pipeline system which occur while this Agreement is in effect, Colonial will provide a copy of this Agreement to the prospective transferee at least 30 days prior to such transfer. Colonial will

provide written notice of the transfer to the PHMSA Southern Region Director no later than 60 days after the transfer occurs.

8. This Agreement does not waive or modify any federal, state, or local laws or regulations that are applicable to Respondent's pipeline systems. This Agreement is not a permit, or a modification of any permit, under any federal, state, or local laws or regulations. Colonial remains responsible for achieving and maintaining compliance with all applicable federal, state, and local laws, regulations, and permits. Respondent agrees that the activities to be performed pursuant to the Work Plan may go beyond the minimum federal pipeline safety regulations.

9. This Agreement does not create rights in, or grant any cause of action to, any third party not party to this Agreement. The U.S. Department of Transportation is not liable for any injuries or damages to persons or property arising from acts or omissions of Respondent or its officers, employees, or agents carrying out the work required by this Agreement. Colonial agrees to hold harmless the U.S. Department of Transportation, its officers, employees, agents, and representatives from any and all causes of action arising from any acts or omissions of Respondent or its contractors in carrying out any work required by this Agreement.

10. This Agreement does not constitute a finding of violation of any federal law or regulation and may not be used in any civil proceeding of any kind as evidence or proof of any fact, fault or liability, or as evidence of a violation of any law, rule, regulation, or requirement, except in a proceeding to enforce the provisions of this Agreement or in future PHMSA enforcement actions. Respondent neither admits nor denies any allegation or conclusion in the Notice or this Agreement and Order, but agrees, for purposes of this Agreement and Order, to address the alleged risk condition by completing the terms of this Agreement.

11. Upon issuance of the Consent Order, the Parties agree to all terms in this Agreement and its appendices, which are incorporated herein.

II. Definitions

12. The "Director" means the Director, Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety, Southern Region. The Director's address is 230 Peachtree Street NW, Suite 2100, Atlanta, Georgia, 30303.

13. The "Failure" means the release of gasoline that occurred on Colonial's Line 1 in Huntersville, North Carolina, which Colonial reported to the NRC on August 14, 2020.

III. Corrective Measures

Colonial agrees to take the following corrective measures to address the alleged risk conditions on the Colonial Pipeline System set forth in the Preliminary Findings of the Notice, as follows:

14. ***Remedial Work Plan.*** Within 120 days after the Consent Order is issued, develop and submit to the Director for approval, a written remedial work plan (Work Plan or Plan) that includes corrective measures. The Plan must include provisions to:

i. Evaluate the effectiveness and capability of Colonial’s leak detection system on the entirety of the Colonial Pipeline System, including main lines, stub lines, and delivery lines. At a minimum, Colonial’s evaluation must consider the following factors—length and size of the pipeline, type of product carried, the swiftness of leak detection, limitations on detectable quantities, location of nearest response personnel, and leak history. This evaluation must also consider maximum operating pressure (MOP), normal operating pressures, flow rates (or throughput), and impacts from any pressure cycles or operational changes. For mainline segments that could affect high consequence areas (HCAs), Colonial’s evaluation must consider the pipeline’s proximity to the HCA and risk assessment results.

ii. Based on the findings of the evaluation pursuant to paragraph i of this Item, determine corrective measures to improve the effectiveness of Colonial’s leak detection system. The corrective measures must result in improving the capability of the leak detection system to detect leaks that could potentially affect public safety, property, or the environment, similar to (but not limited to) leaks with characteristics common to those referenced above.

iii. Evaluate Colonial’s written plans and procedures for inspection and maintenance that address leak detection, ROW inspection and repairs and determine the extent to which the written plans contribute to the elimination of hazardous leaks. Based on the findings, determine appropriate amendments to improve the extent to which the plans contribute to the elimination of hazardous leaks.

iv. Evaluate the effectiveness of Colonial’s ROW inspection program as it pertains to leak detection. This evaluation must consider any geographic regions or features (i.e., HCAs and other sensitive areas) that may require specific or additional means of patrol. Based on the findings, determine corrective measures to improve the effectiveness of Colonial’s ROW inspection program relative to leak detection.

v. Provide to the Director an inventory of all Type A sleeve repairs made on the Colonial Pipeline System. For each identified Type A sleeve, the inventory must include the most accurate information regarding, at a minimum, the installation date, a summary of the basis for the original application (i.e., remediated condition), and identification of any scheduled follow-up actions.

vi. Establish a program and requirements for classifying all future repairs as temporary or permanent. The Plan must establish timeframes for the removal of any repair identified as “temporary,” or the permanent remediation of the condition requiring repair. If such designations and timeframes have been incorporated in to its programs, Colonial must submit documentation confirming the temporal disposition for repair methods deemed acceptable for all line pipe.

15. ***Third-party facilitator.*** Paragraphs i through iv of the Work Plan must be facilitated by an independent third-party approved by the Director. Documentation from the third-party facilitator must be included in each required submission to the Director.

16. ***Schedule.*** The Plan must include a proposed timeline for completion of implementation of the corrective measures identified by Item 14.i – 14.vi of the Agreement.

17. ***Submissions of procedures.*** Submit to the Director all written procedures, new or amended, that will be used to complete the requirements of the Work Plan.

18. ***Quarterly reports.*** Submit quarterly reports to the Director that: (1) include available data and evaluations conducted pursuant to the Work Plan; and (2) describe the progress of the remedial measures being undertaken. The first quarterly report shall be due 90 days from the date of the approval of the Work Plan, and thereafter on the 15th day of the last month of the calendar quarter.

19. ***Consent Agreement Documentation Report (CADR).*** When Colonial has completed all the items in this Agreement, it will submit a final CADR to the Director. This will allow the Director to conduct a thorough review of all measures identified by Colonial with regards to this Agreement prior to approving the closure of this Agreement. The intent is for the CADR to summarize all activities and documentation associated with this Agreement in one document. The CADR must include, but is not limited to:

- i. Table of contents;
- ii. Summary of the Failure, its root cause, and response activities;
- iii. Summary of all inspections, assessments, evaluations, and analysis required by this Agreement, including those conducted by the third-party facilitator;
- iv. Summary of all metallurgical testing and/or metallurgical analysis related to the Failure;
- v. Documentation of all corrective measures taken by Colonial to implement the Work Plan, and the results of those corrective measures;
- vi. Documentation of any revisions to the Work Plan; and
- vii. Lessons learned while completing the Work Plan.

20. ***Documentation of costs.*** It is requested that Colonial maintain documentation of the safety improvement costs associated with fulfilling this Agreement and submit the total to the Director, Southern Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies, and analyses; and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.

IV. Implementation, Review, and Approval Process:

21. Respondent agrees to complete the Work Plan in accordance with the schedules set forth therein as it is approved by the Director, including revisions to the Plan. Results of measures taken in accordance with the approved Plan must be available for review by PHMSA or its representative.

22. With respect to any submission by the Respondent under the Work Plan that requires the approval of the Director, the Director may: (1) approve the submission, in whole or in part; (2) disapprove the submission on specified conditions; (3) disapprove the submission, in whole or in part; or (4) undertake any combination of the foregoing. In the event of approval in whole, in part, or upon conditions, Colonial will proceed to take all actions required by the submission as modified by the Director. In the event the Director does not approve all or any portion of a submission, the Director will provide Colonial with a written notice of the deficiencies. Respondent will correct all deficiencies within the time specified by the Director and resubmit it for approval.

23. All submittals required by the Work Plan that include decisions and determinations must also describe the options and factors considered by Colonial.

24. Respondent agrees to revise the Work Plan as necessary to incorporate new information obtained during the activities performed under the Work Plan. Respondent shall submit any such plan revisions to the Director for prior approval.

25. The Director may grant an extension of time for completion of any of the work to be performed under the Agreement or the Work Plan upon Respondent's timely, written request that demonstrates both good cause for an extension and provides sufficient detail to enable the Director to evaluate Respondent's request. The Director shall respond in writing to any such request.

26. After receiving and analyzing additional data in the course of this proceeding and implementation of the Work Plan, PHMSA may identify other safety measures that need to be taken. In that event, Respondent will be notified in writing of any proposed additional measures and, if necessary, amendments to the Work Plan.

V. Enforcement

27. This Agreement, including all elements of the incorporated Work Plan, is subject to all enforcement authorities available to PHMSA under 49 U.S.C. § 60101, *et seq.*, and 49 C.F.R. Part 190, including administrative civil penalties under 49 U.S.C. § 60122, of up to \$200,000 (as adjusted) per violation for each day the violation continues and referral of the case to the Attorney General for judicial enforcement, if PHMSA determines that Respondent is not complying with the terms of this Agreement in accordance with determinations made by the Director, or if appealed, in accordance with decisions of the Associate Administrator. The maximum civil penalty amounts are adjusted annually for inflation. *See* 49 C.F.R. § 190.233.

VI. Dispute Resolution

28. The Director and Colonial will informally attempt to resolve any disputes arising under this Agreement, including, but not limited to, any decision of the Director. If Colonial and the Director are unable to informally resolve the dispute within 15 calendar days after the dispute is first raised in writing, Colonial may submit a written request for a determination resolving the dispute from the Associate Administrator for Pipeline Safety. The written request for a determination must be provided to the Director, counsel for the Southern Region, and to the Associate Administrator no later than 10 calendar days after the 15-day deadline for informal resolution referenced in this paragraph. Along with its request, Colonial must provide the Associate Administrator with all information Colonial believes is relevant to the dispute. Determinations of the Associate Administrator under this paragraph constitute final Agency action. The existence of a dispute and PHMSA's consideration of matters placed in dispute, will not excuse, toll, or suspend any term or timeframe for completion of any work to be performed under this Agreement during the pendency of the dispute resolution process, except as agreed upon by the Director or Associate Administrator in writing.

VII. Recordkeeping and Information Disclosure

29. Unless otherwise required in this Agreement, Respondent agrees to maintain records demonstrating compliance with all requirements of this Agreement for a period of at least 5 years following completion of all work to be performed. For any reports, plans, or other deliverables required to be submitted to PHMSA pursuant to this Agreement, Respondent may assert a claim of business confidentiality or other protections applicable to the release of information by PHMSA, covering part or all of the information required to be submitted to PHMSA pursuant to this Agreement in accordance with 49 C.F.R. Part 7. Respondent must mark the claim of confidentiality in writing on each page, and include a statement specifying the grounds for each claim of confidentiality. PHMSA will determine the release of any information submitted pursuant to this Agreement in accordance with 49 C.F.R. Part 7, the Freedom of Information Act, 5 U.S.C. § 552, DOT and PHMSA policies, and other applicable regulations and Executive Orders.

VIII. Effective Date

30. The term "Effective Date," as used herein, is the date on which the Consent Order is issued by the Associate Administrator, PHMSA, incorporating the terms of this Agreement.

IX. Modification

31. The terms of this Agreement may be modified by mutual agreement of the Parties. Such modifications must be in writing and signed by both parties.

X. Termination

32. This Agreement will terminate upon submission, approval where specified, and completion of the deliverables set forth in the Work Plan.

XI. Ratification

33. The Parties' undersigned representatives certify that they are fully authorized to enter into the terms and conditions of this Agreement and to execute and legally bind such party to this document.

34. The Parties hereby agree to all conditions and terms of this Agreement.

For Colonial Pipeline Company:

Wes Dunbar
Vice President of Operations

Date

For PHMSA:

James Urisko
Director, Southern Region

Date