

August 18, 2022

VIA ELECTRONIC MAIL TO: mos@everdesk.com

Mr. Michael O'Shaughnessy
President
BOE Midstream, LLC
8301 East 21st Street North, Suite 420
Wichita, Kansas 67206

Re: CPF No. 3-2021-051-NOPV

Dear Mr. O'Shaughnessy:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and assesses a reduced civil penalty of \$42,100. It further finds that BOE Midstream, LLC, has completed the actions specified in the Notice to comply with the pipeline safety regulations. When the civil penalty has been paid, this enforcement action will be closed. Service of the Final Order by e-mail is effective upon the date of transmission and acknowledgement of receipt as 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

Enclosures (Final Order)

cc: Mr. Gregory Ochs, Director, Central Region, Office of Pipeline Safety, PHMSA
Mr. John Wadsworth, Chief Operating Officer, BOE Midstream, LLC,
jwadsworth@boemidstream.com

Mr. Brandon McDowell, Director, ND Operations & Regulatory Compliance, BOE
Midstream, LLC, bmcowell@boemidstream.com

Mr. Levent Kilic, General Manager, BOE Pipelines and LL Terminals, BOE Midstream,
LLC, lkilic@boemidstream.com

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)

BOE Midstream, LLC,)

Respondent.)

CPF No. 3-2021-051-NOPV

FINAL ORDER

On January 26, March 10-12, March 29-31, April 6, and April 21-22, 2021, 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 and virtual pipeline safety inspection of the facilities and records of BOE Midstream, LLC (BOE or Respondent) in Dickinson and Killdeer, North Dakota. BOE operates pipelines with a nominal diameter of 16 inches and 20 inches that transport crude oil from numerous sources in a two-county area. The crude oil pipeline originates at a pump station near Killdeer, North Dakota and terminates at a rail terminal near Dickinson, North Dakota. BOE’s pipeline system is 38.3 miles long from Killdeer to Dickinson.¹

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated November 10, 2021, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that BOE had violated the pipeline safety regulations in 49 C.F.R. Part 195 and proposed assessing a civil penalty of \$61,700 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations.

BOE responded to the Notice by letter dated December 10, 2021, and supplemented this response on February 4 and February 22, 2022 (Responses). BOE contested several of the allegations, offered additional information in response to the Notice, and requested that the proposed civil penalty be reduced or eliminated. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.440(c), which states:
§ 195.440 Public awareness.

¹ Pipeline Safety Violation Report (Violation Report), (November 10, 2021) (on file with PHMSA), at 1.

(a)

(c) The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.

The Notice alleged that Respondent violated 49 C.F.R. § 195.440(c) by failing to follow the general program recommendations, including baseline and supplemental requirements of API RP 1162. Specifically, the Notice alleged that BOE failed to include each of the required stakeholder audiences in the 2019 four-year effectiveness review as required by section 8.4 of API RP 1162.

Respondent did not contest this allegation of violation. Accordingly, based on a review of the evidence, I find that Respondent violated 49 C.F.R. § 195.440(c) by failing to follow the general program recommendations, including baseline and supplemental requirements of API RP 1162.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.440(c), which states:

§ 195.440 Public awareness.

(a)

(c) The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.

The Notice alleged that Respondent violated 49 C.F.R. § 195.440(c) by failing to follow the general program recommendations, including baseline and supplemental requirements of API RP 1162. Specifically, the Notice alleged that BOE failed to follow section 8.4.4 of API RP 1162 which requires operators to determine if the implementation of the Public Awareness Program is impacting bottom-line results (such as a reduction in the number of incidents caused by third-party damage).

In its Responses, BOE stated that it tracks the number of incidents and consequences caused by third-party excavators. It further stated that there were no third-party incidents on the pipeline since it took over the pipeline in 2017. Therefore, BOE asserted, there were no related leaks, damage, or pipeline failures to document, or subsequent data to compare to segment statistics. BOE also suggested that it has the discretion to follow the recommendations in API 1162 section 8.4.4, such as whether to consider the affected public's perception of the safety of its pipelines.² Section 195.440(c) states that "operator[s] must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162." Thus, it is incorrect for Respondent to suggest that it is not required to comply with the recommendations in API 1162 section 8.4.4. All recommendations in API 1162 must be followed by operators, unless proper

² Section 8.4.4 of API 1162 states that "[o]ne other measure that operators may consider is the affected public's perception of the safety of pipelines."

justification is provided. Further, even if there were no third-party incidents on the pipeline since BOE began operation, Respondent must, at a minimum, use that information to determine if implementation of the Public Awareness Program is impacting bottom-line results.

Accordingly, based on a review of the evidence, I find that Respondent violated 49 C.F.R. § 195.440(c) by failing to follow the general program recommendations, including baseline and supplemental requirements of API RP 1162.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.440(g), which states:

§ 195.440 Public awareness.

(a)

(g) The program must be conducted in English and in other languages commonly understood by a significant number and concentration of the non-English speaking population in the operator's area.

The Notice alleged that Respondent violated 49 C.F.R. § 195.440(g) by failing to follow its written public awareness plan that requires a language survey every five years to identify languages commonly understood by a significant number and concentration of the non-English speaking population in the operator's area. Specifically, the Notice alleged that BOE failed to conduct the required language survey due in 2019. The Notice also alleged that BOE admitted it failed to conduct the required language survey.

Respondent did not contest this allegation of violation. Accordingly, based on a review of the evidence, I find that Respondent violated 49 C.F.R. § 195.440(g) by failing to follow its written public awareness plan that requires a language survey every five years.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(l)(1)(ii), which states:

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(l) *What records must an operator keep to demonstrate compliance?*

(1) An operator must maintain, for the useful life of the pipeline, records that demonstrate compliance with the requirements of this subpart. At a minimum, an operator must maintain the following records for review during an inspection:

(i)

(ii) Documents to support the decisions and analyses, including any modifications, justifications, deviations and determinations made, variances, and actions taken, to implement and evaluate each element of the integrity management program listed in paragraph (f) of this section.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(l)(1)(ii) by failing to maintain records that indicate it implemented and followed its Integrity Management Program (IMP) requirements for annual calculation of specified performance measures. Specifically, the Notice alleged that BOE failed to maintain records of the performance measures as required by Element 7 of its IMP for 2017, 2018, 2019, and 2020. The Notice included a table of each missing record for 2017 through 2020.

In its Responses, Respondent provided additional documentation regarding some of the missing records. This information is considered below as it relates to the amount of the proposed civil penalty. Otherwise, Respondent did not contest this allegation of violation. Accordingly, based on a review of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(l)(1)(ii) by failing to maintain records that indicate it implemented and followed its IMP requirements for annual calculation of specified performance measures.

Item 5: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(4)(iii)(E), which states:

§ 195.452 Pipeline integrity management in high consequence areas.

- (a)
- (h) *What actions must an operator take to address integrity issues? -*
- (1)
- (4) *Special requirements for scheduling remediation -*
- (i)
- (iii) *180-day conditions.* Except for conditions listed in paragraph (h)(4)(i) or (ii) of this section, an operator must schedule evaluation and remediation of the following within 180 days of discovery of the condition:
 - (A)
 - (E) An area of general corrosion with a predicted metal loss greater than 50% of nominal wall.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(4)(iii)(E) by failing to schedule and remediate a 180-day condition within 180 days of discovery of the condition. Specifically, the Notice alleged that data from a January 22, 2020 in-line inspection (ILI) run on BOE’s 16-inch segment of its pipeline revealed a 55.18% metal loss feature (Feature 218) located on bore pipe in the 1:00 position. BOE discovered this condition on March 26, 2020. This feature qualifies as a 180-day condition under § 195.452(h)(4)(iii)(E). As of May 7, 2021, this feature had not been remediated. The Notice further alleged that BOE explained that the remediation had not occurred within the required 180-day time period because that segment of pipe is buried 26-feet deep and requires an engineering analysis on how to remediate the identified feature. In addition, the Notice alleged that BOE failed to notify PHMSA that it was unable to meet the 180-day remediation requirement for Feature 218 as required by § 195.452(h)(3).³

Respondent did not contest this allegation of violation. Accordingly, based on a review of the

³ Section 195.452(h)(3) states that “[i]f an operator cannot meet the schedule for any condition, the operator must explain the reasons why it cannot meet the schedule and how the changed schedule will not jeopardize public safety or environmental protection.” In addition, § 195.452(h)(1)(i) provides that “[a]n operator must notify PHMSA . . . if the operator cannot meet the schedule for evaluation and remediation required under paragraph (h)(3)”

evidence, I find that Respondent violated 49 C.F.R. § 195.452(h)(4)(iii)(E) by failing to schedule and remediate a 180-day condition within 180 days of discovery of the condition.

Item 6: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(l)(1)(ii), which states:

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(1) *What records must an operator keep to demonstrate compliance?*

(1) An operator must maintain, for the useful life of the pipeline, records that demonstrate compliance with the requirements of this subpart. At a minimum, an operator must maintain the following records for review during an inspection:

(i)

(ii) Documents to support the decisions and analyses, including any modifications, justifications, deviations and determinations made, variances, and actions taken, to implement and evaluate each element of the integrity management program listed in paragraph (f) of this section.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(l)(1)(ii) by failing to maintain records that demonstrate compliance with § 195.452(f). Specifically, the Notice alleged that BOE failed to maintain records documenting (a) the basis of its decision for a reassessment interval of five years; (b) the consideration of facility threats and facility preventative and mitigative measures in its joint risk analysis of line pipe and facilities; and (c) its emergency flow restricting devices (EFRD) determination.

Respondent did not contest this allegation of violation as to parts (b) and (c) of this Item and provided additional documentation with regard to part (a). In a written recommendation for final action, submitted pursuant to § 190.209(b)(7), the Region Director recommended withdrawing the allegation of violation set forth in part (a). Accordingly, based on a review of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(l)(1)(ii) by failing to maintain records that demonstrate compliance with § 195.452(f) as set forth in parts (b) and (c) of this Item. The allegation of violation in part (a) is withdrawn.

Item 7: The Notice alleged that Respondent violated 49 C.F.R. § 195.573(e), which states:

§ 195.573 What must I do to monitor external corrosion control?

(a)

(e) *Corrective action.* You must correct any identified deficiency in corrosion control as required by § 195.401(b). However, if the deficiency involves a pipeline in an integrity management program under § 195.452, you must correct the deficiency as required by § 195.452(h).

The Notice alleged that Respondent violated 49 C.F.R. § 195.573(e) by failing to correct identified deficiencies in corrosion control as required by § 195.401(b). Specifically, the Notice alleged that BOE failed to repair inoperable test stations (cathodic protection test leads connected to the pipe and held above ground in a stand) 965 and 1729 within a reasonable time. The Notice further alleged that BOE failed to repair the inoperable test stations, discovered on December 3,

2017, during the annual cathodic protection survey, until May 7, 2019, which was 520 days (17 months) after discovery of the condition.

Respondent did not contest this allegation of violation. Accordingly, based on a review of the evidence, I find that Respondent violated 49 C.F.R. § 195.573(e) by failing to repair inoperable test stations 965 and 1729 within a reasonable time.

Item 8: The Notice alleged that Respondent violated 49 C.F.R. § 195.581(b), which states:

§ 195.581 Which pipelines must I protect against atmospheric corrosion and what coating material may I use?

- (a)
- (b) Coating material must be suitable for the prevention of atmospheric corrosion.

The Notice alleged that Respondent violated 49 C.F.R. § 195.581(b) by failing to use a coating material suitable for the prevention of atmospheric corrosion on its pipeline. Specifically, the Notice alleged that BOE used Polyguard RD-6 as transition zone wraps (corrosion protection at soil-air interfaces) at various locations on its pipeline, but failed to coat the wraps with an ultraviolet light protection paint to protect it from ultraviolet light deterioration, which is identified in the manufacturer's installation recommendation on the Polyguard RD-6 product data sheet. In addition, the Notice alleged that BOE failed to coat the transition zones at the discharge of both the main and booster pump stations at Killdeer with a coating suitable for transition zones.

Respondent did not contest this allegation of violation. Accordingly, based on a review of the evidence, I find that Respondent violated 49 C.F.R. § 195.581(b) by failing to use a coating material suitable for the prevention of atmospheric corrosion on its pipeline.

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

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.⁴

In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; any effect that the penalty may have on its ability to continue doing business; the good faith of Respondent in attempting to comply with the pipeline safety regulations; and self-disclosure or actions to correct a violation prior to discovery by PHMSA.

⁴ These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223.

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. The Notice proposed a total civil penalty of \$61,700 for the violations cited above.

Item 2: The Notice proposed a civil penalty of \$19,000 for Respondent’s violation of 49 C.F.R. § 195.440(c), for failing to follow the general program recommendations, including baseline and supplemental requirements of API RP 1162. Respondent asserted that the civil penalty should be reduced or withdrawn because it is excessive in light of its pipeline never having third-party incidents. Having considered Respondent’s argument, I find that it does not warrant a reduction to the penalty. The proposed penalty was already based on the violation minimally affecting pipeline safety and I find the other penalty assessment criteria appropriate reflect the facts presented.⁵

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$19,000 for violation of 49 C.F.R. § 195.440(c).

Item 4: The Notice proposed a civil penalty of \$16,500 for Respondent’s violation of 49 C.F.R. § 195.452(l)(1)(ii), for failing to maintain records that indicate it implemented and followed its Integrity Management Program (IMP) requirements for annual calculation of specified performance measures. The proposed civil penalty was based, in part, on four instances of violation reflecting the four years in which records were missing from 2017-2020. Respondent argued that the civil penalty should be reduced because it provided documentation for some of the missing IMP performance measures.

With respect to the number of instances of the violation, BOE stated it reviewed the IMP performance measures for 2020 and that measures 10, 11, 12, and 15, as identified in the Notice, were not applicable for 2020. It further stated that for measure 5, as identified in the Notice, it would document a 2020 analysis. BOE also stated that it completed another review of its performance measures for 2017 to 2020; that for measures 10, 11, 12 and 15 there were no reportable leaks or non-reportable leaks on the pipelines in question since 2017; and that all these measures would be “0” for 2017 to 2020. BOE further stated that for measure 5, the Root Cause Failure Analysis program is only activated in the event of failure as described in section 7.7 of its IMP, and that, as there were no failures, the Root Cause Analysis Failure program was not activated from 2017-2020; therefore, this measure would also be 0 for those years.

The following table reflects the updated information, in bold, provided by BOE in its Responses.

#	Measure and Goal Description	2017	2018	2019	2020
1	Measure number of IM program activities with goal to ensure processes are <u>monitored, completed and IM program improvements are implemented. (meetings and completed IMP action items)</u>	Missing	Completed	Missing	Completed
2	Measure the effectiveness of the PA program with the goal of zero (0) leaks due the third party damage.	Missing	Completed	Missing	Completed

⁵ Violation Report at 11-15.

3	Measure number of action items from internal audits with goal to ensure processes are <u>monitored, completed and IM program improvements are implemented.</u>	Missing	Missing	Missing	Completed
4	Measure number of action items from external audits with goal to ensure processes are <u>monitored, completed and IM program improvements are implemented.</u>	Missing	Missing	Missing	Completed
5	Measure root cause failure analysis program for systematic problems to ensure processes are <u>monitored, completed, and IM program improvements are implemented.</u>	Provided	Provided	Provided	Provided
6	Measure number of annual CP surveys readings below 850 mV criteria to ensure processes are <u>monitored, completed, and IM program improvements are implemented.</u>	Missing	Missing	Missing	Completed
7	Measure pipeline patrol reports with no "One Call" notifications to ensure processes are <u>monitored, completed, and IM program improvements are implemented.</u>	Missing	Missing	Missing	Completed
8	Measure number of exposed pipe reports to ensure processes are <u>monitored, completed, and IM program improvements are implemented.</u>	Missing	Missing	Missing	Completed
9	Measure number of hydro test leaks to ensure processes are <u>monitored, completed, and IM program improvements are implemented.</u>	Missing	Missing	Missing	Completed
10	Measure number of reportable leaks (i.e., leaks greater than 5 bbl to land) to ensure processes are <u>monitored, completed, and IM program improvements are implemented.</u>	Provided	Provided	Provided	Provided
11	Measure number of leaks due to corrosion to ensure processes are <u>monitored, completed, and IM program improvements are implemented.</u>	Provided	Provided	Provided	Provided
12	Measure number of leaks due to third party damage to ensure processes are <u>monitored, completed, and IM program improvements are implemented.</u>	Provided	Provided	Provided	Provided
13	Measure number of miles of pipeline assessed to ensure processes are <u>monitored, completed, and IM program improvements are implemented.</u>	Missing	Missing	Missing	Completed
14	Number of anomalies found requiring repair or mitigation to ensure processes are <u>monitored, completed, and IM program improvements are implemented.</u>	Missing	Missing	Missing	Completed
15	Leaks due to equipment failure.	Provided	Provided	Provided	Provided

As evident from the table, BOE did not provide documentation for numerous measures. For 2017, it is missing measures 1, 2, 3, 4, 6, 7, 8, 9, 13, and 14. For 2018, it is missing measures 3, 4, 6, 7, 8, 9, 13, and 14. For 2019, it is missing measures 1, 2, 3, 4, 6, 7, 8, 9, 13, and 14. BOE completed all measures for 2020. Accordingly, I find a reduction in the instances of allegation from four to three is warranted because BOE provided the missing documentation for 2020.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a reduced civil penalty of \$16,200 for violation of 49 C.F.R. § 195.452(l)(1)(ii).

Item 5: The Notice proposed a civil penalty of \$6,900 for Respondent's violation of 49 C.F.R.

§ 195.452(h)(4)(iii)(E), for failing to schedule and remediate a 180-day condition within 180 days of discovery of the condition. Respondent requested reduction of the civil penalty for two reasons.

With respect to circumstances, Respondent asserted the civil penalty should be reduced because it self-reported the violation. However, Respondent already received credit for self-reporting this violation in the initial proposed civil penalty calculation. Therefore, no further reduction is warranted for Respondent's self-reporting.

With respect to good faith, Respondent asserted the civil penalty should be reduced because it was unable to remediate the condition within 180 days. Respondent contended that it discovered the condition during winter and needed to conduct an engineering dig. This is not a reasonable justification for non-compliance. An operator must complete remediation of a condition according to the specified schedule and § 195.452(h)(1)(i) and (h)(3) require an operator notify PHMSA if it is unable to remediate a 180-day condition within the required time. Respondent failed to notify PHMSA it was unable to remediate this deficiency and provided no reasonable justification for its failure to do so. Therefore, I do not find reason to reduce the penalty under the good faith factor.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$6,900 for violation of 49 C.F.R. § 195.452(h)(4)(iii)(E).

Item 7: The Notice proposed a civil penalty of \$19,300 for Respondent's violation of 49 C.F.R. § 195.573(e), for failing to correct identified deficiencies in corrosion control within a reasonable time as required by § 195.401(b). Respondent requested a reduction of the civil penalty.

With respect to culpability, Respondent asserted the civil penalty should be reduced because it identified and corrected the violation in March 2019 before PHMSA's inspection. I find that the Violation Report was incorrectly marked with respect to culpability. It should have been marked "After the operator found the non-compliance, the operator took documented action to address the cause of the non-compliance, and corrected the non-compliance before PHMSA learned of the violation. (Does not apply to operator post-accident/incident enforcement actions.)"⁶

Accordingly, having reviewed the record and considered the updated assessment criteria, I reduce the proposed civil penalty to \$0 for violation of 49 C.F.R. § 195.573(e).⁷

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total civil penalty of **\$42,100**.

Payment of the civil penalty must be made within 20 days after receipt of this Final Order.

⁶ Violation Report, at 46.

⁷ In its written recommendation for final action, the Region Director stated that if the civil penalty is reduced to a de minimis amount, the violation should be changed to a warning item. The appropriate disposition, however, is not to change the violation, but to reduce the civil penalty to \$0. *See, e.g.*, Flint Hills Resources, CPF No. 3-2020-5021, 2021 WL 4055259, Item 1 (Aug. 23, 2021); Tallgrass Energy Partners, LP, CPF No. 3-2020-1008, 2021 WL 4055256, Item 2 (Jul. 2, 2021).

Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to be made by wire transfer through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMK-325), Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 S MacArthur Blvd, Oklahoma City, Oklahoma 79169. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the \$42,100 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a district court of the United States.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1, 2, 3, 4, 6, and 8 in the Notice for violations of 49 C.F.R. §§ 195.440(c), 195.440(c), 195.440(g), 195.452(l)(1)(ii), 195.452(l)(1)(ii), 195.581(b), 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. The Director indicates that Respondent has taken the following actions specified in the proposed compliance order:

1. With respect to the violation of § 195.440(c) (**Item 1**), Respondent has conducted an effectiveness evaluation of the affected public audience in its August 2021 Public Awareness Effectiveness Evaluation and provided supporting documentation.
2. With respect to the violation of § 195.440(c) (**Item 2**), Respondent has measured bottom line results as required by section 8.4.4 of API 1162 and provided supporting documentation.
3. With respect to the violation of § 195.440(g) (**Item 3**), Respondent has conducted a language survey and provided supporting documentation.
4. With respect to the violation of § 195.452(l)(1)(ii) (**Item 4**), Respondent has completed the 2020 IMP performance measure calculation and provided supporting documentation.
5. With respect to the violation of § 195.452(l)(1)(ii) (**Item 6**), Respondent has provided records documenting (i) the basis of its decision for a reassessment interval of five years; (ii) the consideration of facility threats and facility preventative and mitigative measures in its joint risk analysis of line pipe and facilities; and (iii) the summary, conclusions, and recommendations from the EFRD study.
6. With respect to the violation of § 195.581(b) (**Item 8**), Respondent has provided

records indicating it has (i) coated the Polyguard RD-6 used as transition zone wrap to protect it from ultraviolet light deterioration as required by the product data sheet; (ii) coated the transition zones at the discharge of both the main and booster pumps at the Killdeer station with a wrap suitable for the prevention of atmospheric corrosion; and (iii) adequately protected the carrier pipe from contact with the supports at both the Killdeer main and booster pump stations.

Accordingly, I find that compliance has been achieved with respect to these violations. Therefore, the compliance terms proposed in the Notice are not included in this Order.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. The written petition must be received no later than 20 days after receipt of the Final Order by Respondent. Any petition submitted must contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The filing of a petition automatically stays the payment of any civil penalty assessed. The other terms of the order, including any corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay. If Respondent submits payment of the civil penalty, the Final Order becomes the final administrative decision and the right to petition for reconsideration is waived.

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

August 18, 2022

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued