

## WARNING LETTER

### VIA E-MAIL TO MR. WAYNE SIMMONS

March 24, 2022

Mr. Wayne Simmons  
Chief Operating Officer – Products Pipelines  
Kinder Morgan – SFPP, LP  
1001 Louisiana St., Suite 1000  
Houston, TX 77002

**CPF 5-2022-004-WL**

Dear Mr. Simmons:

On May 19, 2021, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected the right-of-way (ROW) for SFPP, LP, a subsidiary of Kinder Morgan, Inc., (Kinder Morgan) pipeline section LS-12 between Kingvale and Truckee, California.

As a result of the inspection, it is alleged that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

- 1. § 195.412 Inspection of rights-of-way and crossings under navigable waters.**
  - (a) Each operator shall, at intervals not exceeding 3 weeks, but at least 26 times each calendar year, inspect the surface conditions on or adjacent to each pipeline right-of-way. Methods of inspection include walking, driving, flying or other appropriate means of traversing the right-of-way.**

Kinder Morgan failed to inspect the surface conditions on or adjacent to each pipeline ROW. According to Kinder Morgan, it inspects the SFPP LS-12 pipeline segment by aerial patrol.

However, during PHMSA's on-site inspection, it was discovered that Kinder Morgan failed to maintain the ROW on LS-12 in a condition suitable for aerial patrol. Specifically, in several locations between Kingvale and Truckee, California, the ROW was observed to be severely overgrown with vegetation and trees of varying sizes (est. 4-10 feet tall), or had a tree canopy obstructing visibility from the aerial patrol aircraft.<sup>1</sup>

Kinder Morgan's failure to conduct ROW patrols on LS-12 is further evidenced by PHMSA's observation of a creek crossing with a cased unsupported span, where one end of the casing was halfway exposed from the creek bank. Specifically, the west end of the unsupported cased creek crossing behind the Kingvale CalTrans station was halfway exposed, likely placing additional external stress on the pipe.<sup>2</sup>

## **2. § 195.410 Line markers.**

**(a) Except as provided in paragraph (b) of this section, each operator shall place and maintain line markers over each buried pipeline in accordance with the following:**

**(1) Markers must be located at each public road crossing, at each railroad crossing, and in sufficient number along the remainder of each buried line so that its location is accurately known.**

Kinder Morgan failed to maintain line markers in sufficient number along LS-12 so that its location is accurately known. Specifically, in Donner Memorial State Park, PHMSA observed that line markers were not placed in a sufficient number to accurately identify the pipeline location. During the on-site inspection, the PHMSA inspector used normal methods of visual observation, including walking around and looking in all directions, to discern the location of the pipeline, but was unable to do so because the line markers were spaced widely apart and the ROW curves in the park.<sup>3</sup>

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$225,134 per violation per day the violation persists, up to a maximum of \$2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021 and before May 3, 2021, the maximum penalty may not exceed \$222,504 per violation per day the violation persists, up to a maximum of \$2,225,034 for a related series of violations. For violation occurring on or after July 31, 2019 and before January 11, 2021, the maximum penalty may not exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before

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<sup>1</sup> See attached PHMSA photographs of the ROW taken during the on-site inspection.

Since PHMSA's on-site inspection, Kinder Morgan has made progress in the clearing of the ROW. In July 2021, the company received approval for the clearing, and is now seeking permits from various agencies to conduct the clearing.

<sup>2</sup> See 49 C.F.R. § 195.401(b)(1) (requiring operators to make timely repairs upon the discovery of any condition that could adversely affect the safe operation of its pipeline system).

<sup>3</sup> During the inspection, Kinder Morgan explained that park officials do not like the high visibility of tall markers.

July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violation occurring on or after November 2, 2015 and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022.

We have reviewed the circumstances and supporting documents involved in this case, and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to correct the items identified in this letter. Failure to do so will result in SFPP, LP being subject to additional enforcement action.

No reply to this letter is required. If you choose to reply, in your correspondence please refer to **CPF 5-2022-004-WL**. Be advised that all material you submit in response to this enforcement action is subject to being made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b).

Sincerely,

Dustin Hubbard,  
Director, Western Region, Office of Pipeline Safety  
Pipeline and Hazardous Materials Safety Administration

cc: PHP-60 Compliance Registry  
PHP-500 J. Dunphy (#21-213391)  
James Hosler, Assistant Deputy Director, California State Fire Marshal Pipeline Safety  
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