



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

12300 W. Dakota Ave., Suite 110
Lakewood, CO 80228

**NOTICE OF PROBABLE VIOLATION
PROPOSED CIVIL PENALTY
and
PROPOSED COMPLIANCE ORDER**

VIA ELECTRONIC MAIL TO: Wayne Simmons@kindermorgan.com

April 11, 2023

Mr. Wayne Simmons
Chief Operating Officer
Kinder Morgan, LLC
1001 Louisiana Street
Houston, TX 77002

CPF 5-2023-003-NOPV

Dear Mr. Simmons:

From October 31, 2022, through November 4, 2022, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected Kinder Morgan, LLC's (KM) SFPP Pipeline from Long Beach, California to Yuma, Arizona.

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

1. § 195.583 What must I do to monitor atmospheric corrosion control?

(a)

(c) If you find atmospheric corrosion during an inspection, you must provide protection against the corrosion as required by § 195.581.

KM failed to protect against atmospheric corrosion as required. Specifically, during the PHMSA field inspection, atmospheric corrosion on LS-120 was identified, at a span crossing Compton Creek (MP 1.85), including excessive corrosion with pitting. LS-120 is a pipeline segment of the SFPP that carries product from Watson Station to Colton Station and crosses over Compton Creek, which is a tributary that feeds into the Los Angeles River. This span (Compton Creek Span) also has bare pipe at the surface-to-air transition. After finding atmospheric corrosion during the inspection, KM failed to provide protection against corrosion as required by § 195.581. Despite the prevalence of atmospheric corrosion on its line, KM failed to adequately clean and coat the pipeline pursuant to § 195.581(a).¹ Kinder Morgan stated that they were not able to perform an atmospheric inspection this past year due to challenges of inspecting that span and that they did not have the correct equipment. This is also demonstrated in the atmospheric corrosion record.

PHMSA identified additional areas of concern in regard to atmospheric corrosion on KM's SFPP pipeline. Specifically, several areas in Colton Station were found to not be properly cleaned/coated and were exposed to the atmosphere. Colton Station, launcher, and receiver area had coating peeling off, minor atmospheric corrosion, and minor pitting. Breakout Tank C-31 Valve has disbonded coating and appears to have minor atmospheric corrosion. PHMSA was unable to determine the severity of the atmospheric corrosion on this valve while performing the field inspection. This valve is located in a pit, which is a confined space. Breakout Tank C-29 Valve has bare pipe with disbonded coating. PHMSA was unable to determine the severity of the atmospheric corrosion on this valve while performing the field inspection. This valve is also located in a pit, which is a confined space. KM identified Breakout Tank C-29 Valve was already marked to be repaired. KM identified this valve as fair on the 1/28/2020 atmospheric corrosion inspection record. KM identified this valve to have a bare pipe condition on the 1/14/2021 atmospheric corrosion inspection record, almost a full calendar year after KM identified the coating rating to be fair. At the time of the PHMSA inspection in November 2022, the valve still had a bare pipe condition.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$257,664 per day the violation persists, up to a maximum of \$2,576,627 for a series of related violations. For violation occurring on or after March 21, 2022, and before January 6, 2023, the maximum penalty may not exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,412 for a related series of violations. For violation occurring on or after May 3, 2021, and before March 21, 2022, the maximum penalty may not exceed \$225,134 per

¹ This does not fall within an exception in § 195.581(c) because this is not light surface oxide nor is it corrosion that otherwise would not affect the safe operation of the pipeline before the next scheduled inspection. This corrosion impacts the safe operation of the pipeline due to its location within a High Consequence Area location, and the pipeline span is located directly over Compton Creek, which feeds into the Los Angeles River.

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 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 documentation involved for the above probable violation and recommend that you be preliminarily assessed a civil penalty of \$81,500 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$81,500

Proposed Compliance Order

With respect to item 1 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Kinder Morgan, LLC. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement Proceedings*. Please refer to this document and note the response options. All material you submit in response to this enforcement action may be 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).

Following your receipt of this Notice, you have 30 days to respond as described in the enclosed *Response Options*. If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from receipt of this Notice. The Region Director may extend the period for responding upon a written request timely submitted demonstrating good cause for an extension.

In your correspondence on this matter, please refer to **CPF 5-2023-003-NOPV**, and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

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

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Enforcement Proceedings

cc: PHP-60 Compliance Registry
PHP-500 J. Williams, T. Dickey, L. Green (#22-236099)

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Kinder Morgan, LLC a Compliance Order incorporating the following remedial requirements to ensure the compliance of Kinder Morgan, LLC with the pipeline safety regulations:

- A. In regard to Item 1 of the Notice pertaining to Kinder Morgan failed to adequately clean and coat the pipeline pursuant to § 195.581(a), Kinder Morgan, LLC must conduct an atmospheric corrosion inspection to include soil to air interface to determine the amount of corrosion and then follow their procedures for the proper repair method. Due to the location and possible consequences associated with the violation, both the assessment and repair shall be done within **60** days of receipt of the Final Order.

- B. It is requested (not mandated) that Kinder Morgan, LLC maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Dustin Hubbard, Director, Western 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.