

JUNE 2, 2014

Mr. Clark C. Smith
President and Chief Executive Officer
Buckeye Partners, LP
Five TEK Park
9999 Hamilton Boulevard
Breinigsville, PA 18031

Re: CPF No. 1-2013-5028

Dear Mr. Smith:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$83,500. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer dated December 20, 2013. This enforcement action is now closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Byron Coy, P.E., Director Eastern Region, OPS
Mr. Thomas Scott Collier, Vice President, Performance Assurance & Asset Integrity,
Buckeye Partners, LP

CERTIFIED MAIL - RETURN 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)	
)	
Buckeye Partners, LP,)	CPF No. 1-2013-5028
)	
Respondent.)	
)	

FINAL ORDER

On August 16, 2013, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), initiated an investigation of an accident that occurred on August 13, 2013, at Buckeye Partners, LP’s (Buckeye or Respondent) facilities in Linden, New Jersey. An estimated 1.85 barrels of transmix refined petroleum product was released from “Breakout Tank 91” as it was being placed back into service, following routine inspection and maintenance.

As a result of the investigation, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated November 25, 2013, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Buckeye had violated 49 C.F.R. § 195.402(a) and assessing a civil penalty of \$83,500 for the alleged violation.

Buckeye responded to the Notice by letter dated December 20, 2013 (Response). The company did not contest the allegations of violation and paid the proposed civil penalty of \$83,500, as provided in 49 C.F.R. § 190.227. Payment of the penalty serves to close the case with prejudice to Respondent and authorizes the Associate Administrator to make a finding of violation and issue this Final Order under 49 C.F.R. § 190.213.

FINDING OF VIOLATION

In its Response, Buckeye did not contest the allegation in the Notice that it violated 49 C.F.R. Part 195 as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a), which states:

§ 195.402 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a) by failing to follow its own manual of written procedures for conducting normal operations and maintenance activities. Specifically, the Notice alleged that Buckeye failed to follow paragraph 5.12.10 of its procedure, *E-12: Tank Isolation, Cleaning, and Repair*, as personnel returned Breakout Tank 91 to full service. Paragraph 5.12.10 requires that “all valves (including thermal relief systems) and other energy-isolating devices (including blinds) are returned to their normal position as indicated on the Facility Integrity List.”

The Notice alleged that when Buckeye returned Breakout Tank 91 to service, a ½” diameter ball valve was not closed and a plug not installed. The normal position for this valve is closed and the normal position for the plug is to be installed. This failure to follow the company’s own procedure directly led to product being released from the valve as the tank was being filled.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.402(a) by failing to comply with paragraph 5.12.10 of its procedure, *E-12: Tank Isolation, Cleaning, and Repair*.

This finding of violation will be considered a prior offense in any subsequent enforcement action brought 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. 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; and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. 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 \$83,500 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$83,500 for Respondent's violation of 49 C.F.R. § 195.402(a), for failing to comply with paragraph 5.12.10 of its procedure, *E-12: Tank Isolation, Cleaning, and Repair*. Buckeye did not contest the alleged violation and paid the proposed penalty on December 20, 2013.

Having reviewed the record and considered the assessment criteria for Item 1 cited above, I assess Respondent a total civil penalty of **\$83,500**, which amount has been paid in full.

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

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued