

January 13, 2016

Mr. David Wortman
Vice President of Supply and Transportation
Kiantone Pipeline Corporation
15 Bradley Street
Warren, PA 16365

Re: CPF No. 1-2015-5010

Dear Mr. Wortman:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$22,600. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon receipt of payment. 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, PHMSA Eastern Region, OPS
Mr. John Wagner, Esq., Senior Vice President and General Counsel, Kiantone Pipeline Corporation, 15 Bradley Street, Warren, PA 16365

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)	
)	
Kiantone Pipeline Corporation,)	
a subsidiary of United Refining Company,)	CPF No. 1-2015-5010
)	
Respondent.)	
)	

FINAL ORDER

From June 9 to June 27, 2014, 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 pipeline safety inspection of the facilities and records of Kiantone Pipeline Corporation (Kiantone or Respondent) in Warren, Pennsylvania. Respondent, a subsidiary of United Refining Company,¹ operates a hazardous liquid transmission pipeline system, which includes 78 miles of interstate hazardous liquid transmission pipelines in New York and Pennsylvania, 7 miles of intrastate hazardous liquid transmission pipeline in Pennsylvania, 7 breakout tanks for crude oil, and 3 breakout tanks for refined petroleum products.²

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated July 1, 2015, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Kiantone had violated 49 C.F.R. § 195.428 and proposed assessing a civil penalty of \$22,600 for the alleged violations.

Kiantone responded to the Notice by letter dated July 15, 2015 (Response). The company did not contest the allegations of violation but provided an explanation of its actions and requested that the proposed civil penalty be reduced. Respondent did not request a hearing and therefore has waived its right to one.

¹ Bloomberg Business, Company Overview of Kiantone Pipeline Corporation, website: <http://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapid=3711580> (last accessed on December 23, 2015).

² Pipeline Safety Violation Report (Violation Report), (July 1, 2015) (on file with PHMSA) at 1.

FINDING OF VIOLATION

In its Response, Kiantone 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. § 195.428(a), which states:

§ 195.428 Overpressure safety devices and overfill protection systems.

(a) Except as provided in paragraph (b) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not to exceed 7½ months, but at least twice each calendar year, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.

The Notice alleged that Respondent violated 49 C.F.R. § 195.428(a) by failing to inspect and test each pressure relief valve at its Warren, Pennsylvania, facility at intervals not exceeding 15 months, but at least once each calendar year. Specifically, the Notice alleged that Kiantone's relief valve inspections records for 2011, 2012, and 2013 showed that Kiantone inspected four relief valves at the Warren Tank farm on December 2, 2011. The next inspection on these relief valves was not until March 14, 2013. Kiantone failed to inspect and test these valves in 2012.

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. § 195.428(a) by failing to inspect and test each pressure relief valve at its Warren, Pennsylvania, facility at intervals not exceeding 15 months, but at least once each calendar year.

This finding of violation will be considered a prior offense 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.³ 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

³ The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Pub. L. No. 112-90, § 2(a)(1), 125 Stat. 1904, January 3, 2012, increased the civil penalty liability for violating a pipeline safety standard to \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.

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 \$22,600 for the violation cited above.

Item 1: The Notice proposed a civil penalty of \$22,600 for Respondent's violating 49 C.F.R. § 195.428(a) by failing to inspect and test each pressure relief valve at its Warren, Pennsylvania, facility at intervals not exceeding 15 months, but at least once each calendar year.

Respondent does not contest this violation, but requests the proposed penalty be reduced. Kiantone claims its failure to inspect and test these valves at its Warren, Pennsylvania, facility was due to a misinterpretation of § 195.428(a).⁴ Respondent states it reversed the requirement and believed the relief valves needed to be inspected and tested 'every calendar year, not to exceed 15 months.' Respondent notes it now correctly interprets this regulation, so that all pressure relief valves at its Warren, Pennsylvania, facility will be inspected and tested at least once each calendar year.⁵ Further, Kiantone asserts the violation of § 195.428(a) did not result in any unsafe conditions or impact persons or the environment.⁶

After reviewing Respondent's arguments, I find the civil penalty proposed in the Notice should not be reduced. While Respondent now correctly interprets the clear language of § 195.428(a), it failed to do so in 2012. Further, Respondent's breach of § 195.428(a) is a serious violation that could have resulted in an overpressure of the pipeline, potentially affecting the ongoing operational integrity at its facility in Warren, Pennsylvania, as well as creating adverse consequences to the people and environment surrounding this facility. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$22,600 for violation of 49 C.F.R. § 195.428(a).

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 **\$22,600**.

Payment of the civil penalty must be made within 20 days of service. 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, P.O. Box 269039, Oklahoma City, Oklahoma 73125. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the \$22,600 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

⁴ Respondent's Response to the Notice (Response) at 1.

⁵ Response at 1.

⁶ *Id.*

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.

Under 49 C.F.R. § 190.243, Respondent has the right to submit a Petition for Reconsideration of this Final Order. The petition must be sent to: 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. PHMSA will accept petitions received no later than 20 days after receipt of service of the Final Order by the Respondent, provided they 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 but does not stay any other provisions of the Final Order, including any required corrective actions. 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.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued