

December 2, 2016

Mr. Jeff Warmann
President and CEO
Monroe Energy, LLC
920 Cherry Tree Road
Aston, Pennsylvania 19014

Re: CPF No. 1-2015-5017

Dear Mr. Warmann:

Enclosed please find the Final Order issued in the above-referenced case to your subsidiary, MIPC, LLC. It withdraws one of the allegations of violation, makes other findings of violation, assesses a reduced civil penalty of \$108,900, and specifies actions that need to be taken by MIPC to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the compliance order completed, as determined by the Director, Eastern Region, this enforcement action will be 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,

Alan K. Mayberry
Acting Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Byron Coy, P.E., Director, Eastern Region, OPS
Mr. Peter Pirog, VP and General Manager, MIPC, LLC, 920 Cherry Tree Road, Aston,
Pennsylvania 19014

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)	
)	
MIPC, LLC,)	CPF No. 1-2015-5017
 a subsidiary of Monroe Energy, LLC,)	
)	
Respondent.)	
)	

FINAL ORDER

From April 21st through April 25th, 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 Monroe Interstate Pipeline Company, LLC (MIPC or Respondent) in Aston, Pennsylvania. MIPC, a subsidiary of Monroe Energy, LLC, owns and operates a hazardous liquid storage and distribution network that includes 51.25 miles of pipeline, two tank farms, one truck terminal and 25 breakout tanks with a total tankage capacity of nearly 2.8 million barrels.¹

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated September 29, 2015, 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 MIPC had violated 49 C.F.R. §§ 195.432 and 195.452 and proposed assessing a civil penalty of \$110,300 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct one of the alleged violations.

MIPC responded to the Notice by letter dated October 29, 2015 (Response). The company contested only one of the allegations, offered additional information in response to the Notice, and requested that the proposed civil penalty be reduced.

Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 195, as follows:

¹ See, *About MIPC*, <http://www.monroepipeline.com/mipc/about-mipc/> (last visited August 22, 2016).

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(4)(i), which states, in relevant part:

§ 195.452 Pipeline integrity management in high consequence areas.

(h) *What actions must an operator take to address integrity issues.?...*

(4) *Special requirements for scheduling remediation—*

(i) *Immediate repair conditions.* An operator’s evaluation and remediation schedule must provide for immediate repair conditions. To maintain safety, an operator must temporarily reduce operating pressure or shut down the pipeline until the operator completes the repair of these conditions. An operator must calculate the temporary reduction in operating pressure using the formula in Section 451.6.2.2(b) of ANSI/ASME B31.4 (incorporated by reference, *see* § 195.3). An operator must treat the following conditions as immediate repair conditions:...²

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(4)(i) by failing to temporarily reduce operating pressure or shut down the pipeline until the operator completes the repair of immediate repair conditions within a High Consequence Area (HCA)³ or that could affect a HCA. Specifically, the Notice alleged that at the time of the PHMSA inspection, MIPC provided a copy of its integrity management plan and corresponding records, including the in-line inspection (ILI) assessment data for Lines 208/308, completed on November 27, 2012, and Line 408, completed on December 3, 2012. According to the Notice, three immediate repairs were subsequently identified and repaired as follows:

- (a) For Line 408, one immediate repair was discovered on August 27, 2013, and repaired two days later on August 29, 2013.

² The quoted language is the version of § 195.452(h)(4)(i) that was in effect at the time of the alleged violation. The current version of 195.452(h)(4)(i), updated on March 11, 2015, reads as follows:

(i) *Immediate repair conditions.* An operator’s evaluation and remediation schedule must provide for immediate repair conditions. To maintain safety, an operator must temporarily reduce the operating pressure or shut down the pipeline until the operator completes the repair of these conditions. An operator must calculate the temporary reduction in operating pressure using the formulas referenced in paragraph (h)(4)(i)(B) of this section. If no suitable remaining strength calculation method can be identified, an operator must implement a minimum 20 percent or greater operating pressure reduction, based on actual operating pressure for two months prior to the date of inspection, until the anomaly is repaired. An operator must treat the following conditions as immediate repair conditions:...

³ Pursuant to 49 C.F.R. 195.450, a “High Consequence Area” means:

(1) A *commercially navigable waterway*, which means a waterway where a substantial likelihood of commercial navigation exists;

(2) A *high population area*, which means an urbanized area, as defined and delineated by the Census Bureau, that contains 50,000 or more people and has a population density of at least 1,000 people per square mile;

(3) A *other populated area*, which means a place, as defined and delineated by the Census Bureau that contains a concentrated population, such as an incorporated or unincorporated city, town, village, or other designated residential or commercial area; or

(4) An *unusually sensitive area*, as defined in § 195.6.

- (b) For Lines 208/308, two immediate repairs were identified on September 30, 2013. Defect number 38289 was repaired seven days later, on October 7, 2013, and defect number 112749 was repaired nine days later, on October 9, 2013.

In its Response, MIPC contested Item 1(a), stating that Line 408 was idle at the time of discovery of the condition on August 27, 2013, due to scheduled downtime. The line was repaired two days later on August 29, 2013, with no pressure reduction, and was restarted as planned on August 30, 2013. To support its argument, MIPC provided the pressure trend data for Line 408, covering the period from August 26, 2013, through August 30, 2013, as documentation that the pipeline was in fact idle when the immediate-repair condition was identified and repaired. MIPC did not contest Item 1(b) relating to Lines 208/308.

Accordingly, based upon a review of all of the evidence and the recommendation of the Eastern Region, OPS, I hereby withdraw Item 1(a). As for Item 1(b), I find that Respondent violated 49 C.F.R. § 195.452(h)(4)(i) by failing to temporarily reduce operating pressure or shut down Lines 208/308 until the operator completed the repairs of the two identified immediate repair conditions.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(2), which states:

§ 195.452 Pipeline integrity management in high consequence areas.

(h) *What actions must an operator take to address integrity issues?—*

(1) *General.* An operator must take prompt action to address all anomalous conditions the operator discovers through the integrity assessment or information analysis. In addressing all conditions, an operator must evaluate all anomalous conditions and remediate those that could reduce a pipeline's integrity. . .

(2) *Discovery of condition.* Discovery of a condition occurs when an operator has adequate information about the condition to determine that the condition presents a potential threat to the integrity of the pipeline. An operator must promptly, but no later than 180 days after an integrity assessment, obtain sufficient information about a condition to make that determination, unless the operator can demonstrate that the 180-day period is impracticable.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(2) by failing to promptly obtain sufficient information about a condition to make a determination whether it presented a threat to the integrity of the pipeline within an HCA or in an area that could affect an HCA. Specifically, the Notice alleged that the PHMSA inspector reviewed MIPC's integrity management plan and corresponding records, including a handwritten list of pipelines showing when the ILI tool runs had been completed for Lines 208/308 and 408, which were November 27, 2012 and December 3, 2012, respectively.

In addition, the Notice alleged that MIPC provided PHMSA with two emails from the ILI contractor indicating when discovery of the anomalies was made. In these emails, the ILI contractor interpreted the data from the ILI tool runs. One email for Line 408 was dated August

27, 2013, and the second email for Lines 208/308 was dated September 30, 2013. MIPC's Maintenance Lead stated that these emails were considered to be the company's official discovery of repair conditions for Lines 208/308 and 408.

Based on this information, the discovery of the anomalies for Line 408 occurred 267 days after the ILI tool run and for Lines 208/308 occurred 307 days after the ILI tool run. As such, Respondent exceeded the 180-day maximum time period permitted under § 195.452(h)(2) to determine whether the anomalies presented a potential integrity threat.

In its Response, MIPC 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. § 195.452(h)(2) by failing to promptly obtain sufficient information about a condition to make a determination whether it presented a threat to the integrity of Lines 208/308 and 408.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.432(a), which states:

§ 195.432 Inspection of in-service breakout tanks.

(a) Except for breakout tanks inspected under paragraphs (b) and (c) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, inspect each in-service breakout tank.

The Notice alleged that Respondent violated 49 C.F.R. § 195.432(a) by failing to inspect each in-service breakout tank at intervals not exceeding 15 months. Specifically, the Notice alleged that the PHMSA inspector reviewed the procedures and records related to the inspection of in-service breakout tanks, including *F-37: Aboveground Tanks (In-Service)*, in MIPC's operations and maintenance manual. In particular, Section 2 of that procedure instructed Respondent to use the company's *Form A (Annual Tank Inspection Form)* to record the information from the annual tank inspection.

According to the Notice, the PHMSA inspector reviewed the annual tank inspection forms from 2012 and 2013 for 12 breakout tanks. Upon review, the PHMSA inspector noted that all 12 tanks were inspected on March 15, 2012; however, none were subsequently inspected until September 23, 2013. Based on this information, Respondent allegedly exceeded the 15-month inspection interval requirement of § 195.432(a), as all the 2013 inspections were due to occur no later than June 15, 2013.

In its Response, MIPC 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. § 195.432(a) by failing to inspect 12 of its in-service breakout tanks at an interval not exceeding 15 months.

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 The Notice proposed a total civil penalty of \$110,300 for the violations cited above.

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.

Item 1: The Notice proposed a civil penalty of \$46,000 for Respondent's violation of 49 C.F.R. § 195.452(h)(4)(i), for failing to temporarily reduce operating pressure or shut down the pipeline until MIPC had completed the repair of immediate-repair conditions. Respondent did not contest this allegation of violation for Lines 208/308 (Item 1(b)), but did contest it for Line 408 (Item 1(a)). As discussed above, I found that there was insufficient evidence to find that MIPC violated § 195.452(h)(4)(i) for the anomalies discovered on Line 408 because the line was idle at the time. Therefore, the penalty for Item 1 should be reduced accordingly.

I have reviewed the assessment criteria and the penalty that was initially proposed for this Item. While withdrawal of Item 1(a) does reduce the number of instances of violation, it does not proportionately reduce the gravity of the overall Item, which was based largely on the significant threat posed by the prolonged operation of Lines 208/308 in a high-risk area without being repaired or the operating pressure being reduced. Also, Respondent provided no credible justification for its failure to respond promptly to this known integrity threat. Therefore, after reviewing Respondent's arguments and the evidence of record, I assess Respondent a reduced civil penalty of \$44,600 for violation of 49 C.F.R. § 195.452(h)(4)(i).

Item 2: The Notice proposed a civil penalty of \$46,000 for Respondent's violation of 49 C.F.R. § 195.452(h)(2), for failing to promptly obtain sufficient information about a condition to make a determination whether it presented a threat to the integrity of the pipeline within an HCA or an area that could affect an HCA. MIPC neither contested this Item nor provided any explanation for its delay in discovering the anomalies. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$46,000 for violation of 49 C.F.R. § 195.452(h)(2).

Item 3: The Notice proposed a civil penalty of \$18,300 for Respondent's violation of 49 C.F.R. § 195.432(a), for failing to inspect each in-service breakout tank at intervals not exceeding 15

⁴ 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.

months. MIPC neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$18,300 for violation of 49 C.F.R. § 195.432(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 **\$108,900**.

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 \$108,900 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 the violation of § 195.452(h)(4)(i) (Item 1(b)). 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. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 195.452(h)(4)(i) (**Item 1(b)**), Respondent must revise its integrity management plan and procedures to address the pressure-reduction or pipeline shut-down requirements of § 195.452(h)(4)(i).
2. MIPC must submit the revised IMP procedures stipulated in Item 1 of this Compliance Order to the Region Director within 90 days of receipt of this Final Order.
3. Finally, pursuant to the authority of 49 U.S.C. 60118(b) and 49 C.F.R. 190.217, Respondent is requested (not mandated) to maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Byron Coy, PE, Director, Eastern Region, PHMSA. 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.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000 for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States. Under 49 C.F.R. § 190.243, Respondent has a 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 this 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. Unless the Associate Administrator, upon request, grants a stay, all other terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

December 2, 2016

Alan K. Mayberry
Acting Associate Administrator
for Pipeline Safety

Date Issued