

July 24, 2017

Mr. Clark C. Smith
President & CEO
Buckeye Partners, LP
One Greenway Plaza
Houston, Texas 77046

Re: CPF No. 1-2017-5009

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$36,600. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated April 25, 2017. This enforcement action is now closed. Service of the Final Order is deemed effective as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Director, Eastern Region, Office of Pipeline Safety, PHMSA
Mr. Thomas S. Collier, Vice President, Performance Assurance and Asset Integrity,
Buckeye Partners, LP, Five Tek Park, 9999 Hamilton Boulevard, Breinigsville,
Pennsylvania 18031

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. 1-2017-5009
)	
Respondent.)	
)	

FINAL ORDER

From September 28 through October 1, 2015, 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 the Buckeye Partners, LP (Buckeye or Respondent), construction project in Toledo, Ohio. The project included construction of approximately 1,800 feet of 12-inch-diameter pipe from Buckeye’s existing Line 211 into its Toledo Station located in the City of Toledo. The project also included the construction of one small mainline pump, two station booster pumps, six tank booster pumps, and additional facility piping within the Toledo Station.¹

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated April 3, 2017, 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. § 195.202 and proposed assessing a civil penalty of \$36,600 for the alleged violation.

Buckeye responded to the Notice by letter dated April 13, 2017 (Response). The company did not contest the allegation of violation and paid the proposed civil penalty of \$36,600. In accordance with 49 C.F.R. § 190.208(a)(1), such payment authorizes the Associate Administrator to make a finding of violation and to issue this final order.

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. § 195.202, which states:

¹ Pipeline Safety Violation Report (Violation Report), (Apr. 3, 2017) (on file with PHMSA), at 1-2.

§ 195.202 Compliance with specifications or standards.

Each pipeline system must be constructed in accordance with comprehensive written specifications or standards that are consistent with the requirements of this part.

The Notice alleged that Respondent violated 49 C.F.R. § 195.202 by failing to construct a pipeline system in accordance with comprehensive written specifications or standards consistent with Part 195. Specifically, the Notice alleged that Respondent failed to follow its written construction procedures regarding weld quality control and acceptability. The record includes *Buckeye Procedure A-01, Section 6, Paragraph 6.2.4*, which states that “[d]efects in welds that do not meet code requirements for reasons other than 6.2.3 above may be repaired only once.”² Records provided by Buckeye during the inspection show that two girth welds performed during the course of the Toledo construction project were each repaired twice.³

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. § 195.202 by failing to construct a pipeline system in accordance with comprehensive written specifications or standards consistent with Part 195.

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.⁴ 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 \$36,600 for the violation cited above.

Item 1: The Notice proposed a civil penalty of \$36,600 for Respondent’s violation of 49 C.F.R. § 195.202, for failing to construct a pipeline system in accordance with comprehensive written

² *Id.*, at 6.

³ *Id.*, at 6-7.

⁴ These amounts are adjusted annually for inflation. *See, e.g.*, Pipeline Safety: Inflation Adjustment of Maximum Civil Penalties, 82 Fed. Reg. 19325 (April 27, 2017).

specifications or standards consistent with Part 195. Buckeye neither contested the allegation nor presented any evidence or argument justifying elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$36,600 for the violation of 49 C.F.R. § 195.202. Payment for this Item was received on April 25, 2017.

In summary, having reviewed the record and considered the assessment criteria for the Item cited above, I assess Respondent a total civil penalty of **\$36,600**.

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

July 24, 2017

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued