

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

OVERNIGHT EXPRESS DELIVERY

January 18, 2018

Joshua Etzel
Vice President – Operations & Engineering
Kinder Morgan Liquid Terminals, LLC
78 Lafayette Street
Carteret, NJ 07008

CPF 1-2018-5004

Dear Mr. Etzel:

From July 27-31, 2015, 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 inspected Kinder Morgan Liquid Terminals, LLC's (KMLT) pipeline terminal in Perth Amboy, New Jersey.

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

1. § 195.310 Records

(a) A record must be made of each pressure test required by this subpart, and the record of the latest test must be retained as long as the facility tested is in use...

KMLT did not retain a record of each pressure test required by this subpart. Specifically, KMLT failed to retain pressure test records for 9 breakout tanks at its Perth Amboy, NJ facility, as per § 195.310.

In 2007, KMLT constructed 9 new breakout tanks. These tanks, numbered 52 through 60, required hydrostatic testing, per API Standard 650 "Welded Steel Tanks for Oil Storage" 11th Edition, incorporated by reference in § 195.3(b)(18).

During the inspection, the PHMSA inspector requested hydrostatic test records for the breakout tanks. KMLT provided a “Settlement Elevation Plan and Graph” for each breakout tank that required a hydrostatic test and stated that, “the settlement surveys were the only records relevant to the 2007 hydrostatic tests of the 9 breakout tanks.”

In email correspondence following the inspection, KMLT responded to PHMSA’s exit interview questions in an email dated September 10, 2015, stating, “Have aboveground breakout tanks been pressure tested to their corresponding API or ASME Standard or Specification, and do pressure test records contain the required information? - BOT pressure test records are missing due to the devastation caused by Hurricane Sandy (construction, inspection, repair and alteration records have been lost/destroyed and could not be provided during the inspection).”

Thus, KMLT failed to maintain documentation as required by § 195.310(a).

2. § 195.420 Valve Maintenance

(b) Each operator shall, at intervals not exceeding 7½ months, but at least twice each calendar year, inspect each mainline valve to determine that it is functioning properly.

KMLT failed to inspect its mainline valves at intervals not exceeding 7½ months, but at least twice each calendar year.

During the inspection, the PHMSA inspector reviewed KMLT’s mainline valve inspection records for the Perth Amboy, New Jersey facility. The Mainline Valve Inspection records indicated that mainline valve inspections for Mainline Valve 001 – MOV at Motiva and Mainline Valve 002 – MOV at Buckeye Outbound were inspected on:

- a. February 21, 2014
- b. September 26, 2014
- c. July 23, 2015

The interval between mainline valve inspections conducted on September 26, 2014 and July 23, 2015, exceeded the 7½ month requirement by 73 days.

Thus, KMLT failed to inspect its mainline valves at intervals not exceeding 7½ months, but at least twice each calendar year.

3. § 195.573 What must I do to monitor external corrosion control?

(a) Protected pipelines. You must do the following to determine whether cathodic protection required by this subpart complies with Sec. 195.571:

(1) Conduct tests on the protected pipeline at least once each calendar year, but with intervals not exceeding 15 months. However, if tests at those intervals are impractical for separately protected short sections of bare or ineffectively coated pipelines, testing may be done at least once every 3 calendar years, but with intervals not exceeding 39 months.

KMLT failed to conduct tests on its protected pipeline at least once each calendar year, but with intervals not exceeding 15 months.

During the inspection, the PHMSA inspector reviewed KMLT's structure pipe to soil inspection records from 2012 through 2015. The records showed that in 24 instances, KMLT conducted tests on protected pipelines that were not bare or ineffectively coated, but the interval between structure pipe to soil inspections conducted on August 27, 2013 and December 15-19, 2014, exceeded 15 months by 18-22 days. Additionally, in 7 instances, from 2013-2015, KMLT failed to take any structure pipe to soil readings. The PHMSA inspector asked KMLT why there were missing test reads and KMLT was unable to provide a reason.

Thus, KMLT failed to conduct tests on the protected pipeline at least once each calendar year, but with intervals not exceeding 15 months.

4. § 195.575 Which facilities must I electrically isolate and what inspections, tests, and safeguards are required?

(c) You must inspect and electrically test each electrical isolation to assure the isolation is adequate.

KMLT failed to inspect and electrically test each electrical isolation to assure the isolation is adequate.

During the inspection, the PHMSA inspector reviewed KMLT's casing pipe to soil inspection records from calendar years 2012 through 2015, and KMLT's T-O&M 903 – External Corrosion Control for Buried or Submerged Pipelines and Above Ground Tanks, revised 10/05/12. Section 1.8 of the procedure stated in part, “Test electrical isolation by comparing the casing-to-soil potentials to the matching pipe-to-soil potentials at least once each calendar year, not to exceed 15 months...”

In subsequent follow-ups to the inspection, PHMSA and KMLT exchanged emails from August 27, 2015 through September 8, 2015 regarding cathodic protection records. In those emails, KMLT stated in part that:

“I have attached a spreadsheet to correlate the readings to the alignment sheets. We are missing some casing readings for 2012 and 2014, and are still trying to locate the readings for 2013, however, have not been able to find them thus far...”

“Yes, it can be confirmed that under the “CPDM Reading Taken” column for 2012 to 2014 PANJ 1201 pipeline, where the rows are blank the Casing Test Lead data is missing...”

KMLT was missing 14 casing P/S (casing pipe to soil) test reads from 2013-2014. Additionally, the intervals between 10 casing pipe to soil inspections conducted on August 27, 2013 and December 15-19, 2014, exceeded 15 months by 18-22 days.

Thus, KMLT failed to inspect and electrically test each electrical isolation to assure the isolation is adequate.

5. §195.589 What corrosion control information do I have to maintain?

(c) You must maintain a record of each analysis, check, demonstration, examination, inspection, investigation, review, survey, and test required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that corrosion requiring control measures does not exist. You must retain these records for at least 5 years, except that records related to Secs. 195.569, 195.573(a) and (b),

and 195.579(b)(3) and (c) must be retained for as long as the pipeline remains in service.

KMLT failed to maintain a record of each analysis, check, demonstration, examination, inspection, investigation, review, survey, and test required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that corrosion requiring control measures does not exist.

Specifically, KMLT failed to maintain records of inspections of cathodic protection systems used to control corrosion on the bottom of 8 aboveground breakout tanks #2, #3, #5, #7, #10, #11, #17, and #18, to ensure that operation and maintenance of the system are in accordance with API Recommended Practice 651, as per § 195.573(d).

During the inspection, the PHMSA inspector reviewed cathodic protection “Tanks Inspection” records for 2012-2014. The PHMSA Inspector requested records to document inspection of tank cathodic protection systems. KMLT could not provide 2013 inspection records.

Therefore, KMLT failed to maintain records of inspections of the cathodic protection system for 8 breakout tanks for 2013.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$209,002 per violation per day the violation persists, up to a maximum of \$2,090,022 for a related series of violations. For violations occurring prior to November 2, 2015, the maximum penalty may not exceed \$200,000 per violation per day, with a maximum penalty not to exceed \$2,000,000 for a related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$208,600 as follows:

<u>Item number</u>	<u>PENALTY</u>
2	\$33,300
3	\$74,700
4	\$72,800
5	\$27,800

Proposed Compliance Order

With respect to item 1, pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Kinder Morgan Liquid Terminals, 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 Compliance Proceedings*. Please refer to this document and note the response options. All material 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). 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.

Please submit all correspondence in this matter to Robert Burrough, Director, PHMSA Eastern Region, 820 Bear Tavern Road, Suite 103, West Trenton, New Jersey 08628. Please refer to **CPF 1-2018-5004** on each document you submit, and whenever possible provide a signed PDF copy in electronic format. Smaller files may be emailed to robert.burrough@dot.gov. Larger files should be sent on a CD accompanied by the original paper copy to the Eastern Region Office.

Additionally, if you choose to respond to this (or any other case), please ensure that any response letter pertains solely to one CPF case number.

Sincerely,

Robert Burrough
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration

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

PROPOSED COMPLIANCE ORDER

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

1. In regard to Item 1 of the Notice, pertaining to KMLT's failure to retain a record of each pressure test as per § 195.310(b), KMLT must:
 - a. Assemble existing hydrostatic test records for breakout tanks #52-60. The records must be held as surrogate records for missing hydrostatic test records. The surrogate records must include specific info about the hurricane event, impact to site, and efforts to recover the damaged records.
 - b. All documentation demonstrating compliance with PCO item 1a above must be submitted to the Director, Eastern Region, Pipeline and Hazardous Materials Safety Administration, 820 Bear Tavern Road, Suite 103, West Trenton, NJ 08628 for review within 60 days of receipt of the Final Order.
2. It is requested (not mandated) that KMLT maintains documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Robert Burrough, Director, Eastern 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.