

August 8, 2019

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

Re: CPF No. 1-2018-5012

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 and makes a finding of violation. This enforcement action is now closed. Service of the Final Order by certified mail is effective upon the date of mailing, 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: Mr. Robert Burrough, Director, Eastern Region, Office of Pipeline Safety, PHMSA
Mr. Peter Pirog, Vice President and General Manager, MIPC, LLC, 920 Cherry Tree
Road, Aston, Pennsylvania, 19014
Mr. John Bowen, Pipeline Safety Lead, 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. 1-2018-5012
a subsidiary of Monroe Energy, LLC,)	
)	
Respondent.)	
_____)	

FINAL ORDER

From May 15 through 19, 2017, 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 21, 2018, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that MIPC, LLC had violated 49 C.F.R. §§ 195.432(b) and (d) and proposed assessing a civil penalty of \$52,100 for the alleged violations.

MIPC responded to the Notice by letter dated October 1, 2018 (Response). The company contested the allegations, offered additional information in response to the Notice, and requested that the proposed civil penalty be eliminated. Respondent did not request a hearing and therefore has waived its right to one.

FINDING OF VIOLATION

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

¹ MIPC, LLC website, *available at* <http://www.monroepipeline.com/> (last accessed Mar. 4, 2019).

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.432(d), which states:

§ 195.432 Inspection of in-service breakout tanks.

(a)...

(d) The intervals of inspection specified by documents referenced in paragraphs (b) and (c) of this section begin on May 3, 1999, or on the operator's last recorded date of the inspection, whichever is earlier.

In addition, Section 195.432(b) states in part: "Each operator must inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Std 653..."

API 653 also states in section 6.4.2, Inspection Intervals (emphasis added):

6.4.2.1 Intervals between internal inspections shall be determined by the corrosion rates measured during previous inspections or anticipated based on experience with tanks in similar service. Normally, bottom corrosion rates will control and the inspection interval will be governed by the measured or anticipated corrosion rates and the calculations for minimum required thickness of tank bottoms (see 4.4.7). The actual inspection interval shall be set to ensure that the bottom plate minimum thicknesses at the next inspection are not less than the values listed in Table 6-1. In no case, however, shall the internal inspection interval exceed 20 years.

The Notice alleged that Respondent violated 49 C.F.R. § 195.432(d) by failing to perform an internal inspection of Chelsea Terminal's Tank 706 within the maximum time interval required by API Standard 653, 3rd edition (incorporated by reference, see § 195.3) (API 653). Specifically, the Notice alleged that MIPC exceeded the API 653 maximum interval of 20 years between its 1996 and 2017 internal inspections for Tank 706. The dates MIPC performed internal inspections of Tank 706 were December 3, 1996, and February 23, 2017, an inspection interval of 20 years and 83 days.²

In its Response, MIPC provided records to show that the tank was taken out of service on November 10, 2016, in preparation for cleaning and inspection.³ After the inspection was completed on February 23, 2017, MIPC made the necessary repairs. MIPC then had a third-party contractor conduct a Modification Inspection on May 31, 2017, to verify that all the necessary repairs had been made.⁴ The tank was then returned to service on June 6, 2017.⁵

Although MIPC's tank was empty of product and out of service during the time that an API 653

² Pipeline Safety Violation Report (Violation Report), (Sept. 21, 2018) (on file with PHMSA), at 12.

³ Response, at 2.

⁴ Response, at 4-12.

⁵ Response, at 2.

inspection was required, this does not alleviate MIPC's regulatory obligation. An API 653 inspection was not completed to determine the condition of the tank until February 23, 2017, an inspection interval of 20 years and 83 days. The inspection interval is based on the actual inspection completion dates, and not whether the tank was in service.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.432(d) by failing to perform an internal inspection of Chelsea Terminal's Tank 706 within the maximum time interval required by API Standard 653.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

WITHDRAWAL

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.432(b), which states:

§ 195.432 Inspection of in-service breakout tanks.

(a) ...

(b) Each operator must inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Std 653 (except section 6.4.3, Alternative Internal Inspection Interval) (incorporated by reference, see § 195.3). However, if structural conditions prevent access to the tank bottom, its integrity may be assessed according to a plan included in the operations and maintenance manual under § 195.402(c)(3). The risk-based internal inspection procedures in API Std 653, section 6.4.3 cannot be used to determine the internal inspection interval

The Notice alleged that Respondent violated 49 C.F.R. § 195.432(b) by failing to maintain documentation of remedial actions resulting from internal breakout-tank inspections required by API 653. Specifically, the Notice alleged that MIPC records of internal tank inspections of the breakout tanks at its Chelsea Terminal indicated that internal inspections were completed on February 23, 2017, for Tank 706 and on June 19, 2013, for Tank 707. PHMSA requested records of the subsequent remedial actions resulting from the recommendations and suggestions made in the inspection reports; however, MIPC was unable to produce records of the repairs in accordance with the inspection report recommendations.⁶

In its Response, MIPC contested Item 1, stating that MIPC had a third-party contractor conduct a Modification Inspection on May 31, 2017, to verify that all necessary repairs had been made.⁷

⁶ Violation Report, at 5.

⁷ Response, at 1.

MIPC provided the Modification Inspection report for Tank 706, confirming that the repairs/alterations that had been completed.⁸ For Tank 707, MIPC presented repairs/alterations done based on invoices, associated purchase order, non-destructive testing records, and a written letter in lieu of a report from the inspection company reviewing the completion of repairs based on the inspection company's out-of-service report dated June 19, 2013.⁹

Accordingly, based upon a review of all of the evidence and the recommendation of the Director, I find that MIPC complied with the requirements in § 195.432(b) and hereby withdraw Item 1.

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.¹⁰ 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; 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 \$52,100 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$24,500 for Respondent's violation of 49 C.F.R. § 195.432(b), for failing to maintain documentation of remedial actions resulting from internal breakout tank inspections required by API Std 653. Having withdrawn this Item above, the associated penalty is also withdrawn.

Item 2: The Notice proposed a civil penalty of \$27,600 for Respondent's violation of 49 C.F.R. § 195.432(d), for failing to perform an internal inspection of Chelsea Terminal's Tank 706 within the maximum time interval required by API Standard 653. MIPC performed internal inspections of Tank 706 on December 3, 1996, and then on February 23, 2017, an inspection interval of 20 years and 83 days. MIPC requested that the penalty be eliminated and explained that the reason it missed the deadline for inspecting Tank 706 was because the tank was empty while it was cleaned and prepared for inspection.¹¹ The tank was then inspected along with the completion of certain repair work.

⁸ Response, at 4-12.

⁹ Response, at 14-23.

¹⁰ These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223; Revisions to Civil Penalty Amounts, 83 Fed. Reg. 60732, 60744 (Nov. 27, 2018).

¹¹ Response, at 2.

Upon reviewing the criteria for determining penalties, I find that there is justification for lowering MIPC's Culpability from "[t]he operator failed to comply with a requirement that was clearly applicable" to "[a]fter the operator found the non-compliance, the operator took documented action to address the cause of the non-compliance, and corrected the non-compliance before PHMSA learned of the violation." While there is no question that MIPC's internal inspection of Tank 706 was 83 days late, MIPC has provided justification for the delay, and the tank was inspected before PHMSA's inspection in May 2017. I also find that, in consideration of MIPC's efforts to achieve compliance and the reduction in risk resulting from removing the tank from service prior to the inspection due date, MIPC has provided a reasonable justification for its non-compliance, and therefore should receive credit for Good Faith.

Accordingly, having reviewed the record and considered the assessment criteria, I have determined that the penalty for MIPC's violation of 49 C.F.R. § 195.432(d) should be eliminated.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the 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, no later than 20 days after receipt of service of the Final Order by Respondent. Any petition submitted must 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. The other terms of the order, including any corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay. 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.

August 8, 2019

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued