



U.S. Department
of Transportation

Pipeline and
Hazardous Materials
Safety Administration

820 Bear Tavern Road, Suite 103
West Trenton, NJ 08628
609.771.7800

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

OVERNIGHT EXPRESS DELIVERY

June 7, 2018

Mr. Joshua Etzel
VP – Operations and Engineering
Kinder Morgan Liquid Terminals, LLC
78 Lafayette Street
Carteret, NJ 07008

CPF 1-2018-5016

Dear Mr. Etzel:

From September 11 to 13, 2017, 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 (U.S.C.) inspected Kinder Morgan Liquid Terminals, LLC's (KMLT) procedures and records on breakout tank cathodic protection in Carteret, New Jersey.

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

1. **§195.402 Procedural manual for operations, maintenance, and emergencies.**
 - (a) **General.** Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

KMLT failed to follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. Specifically, KMLT failed to follow its External Corrosion procedure for taking corrective actions on its cathodic protection system, per the requirements of § 195.573(e).

Section 195.573(e) states:

“(e) Corrective action. You must correct any identified deficiency in corrosion control as required by § 195.401(b). However, if the deficiency involves a pipeline in an integrity management program under § 195.452, you must correct the deficiency as required by § 195.452(h).”

During the inspection, the PHMSA inspector reviewed, “T-O&M 903 – External Corrosion Control for Buried or Submerged Pipelines” (Procedure), dated 3/20/17 and “Test Point Inspections” (Record), dated 2015 – 2017.

The Procedure, Section 3.7.7 stated, “Corrective action must be taken when any deficiencies in cathodic protection are discovered during cathodic protection monitoring before the next monitoring period (includes all aspects of CP monitoring rectifiers, bonds, annual surveys etc.). If corrective actions cannot be completed before the next monitoring period, a corrective action plan must be established with justification...”

In 5 instances from 2015 to 2016, KMLT failed to take corrective action before the next monitoring period (i.e., calendar year per Section 3.7.1) after deficiencies in cathodic protection were discovered. These deficiencies were cathodic protection annual readings below criteria on KMLT’s Tanks 63, 100-6, 100-7, 100-9 and 120.

During the inspection, the PHMSA inspector asked KMLT about the delay in corrective actions and KMLT was unable to provide a response.

Therefore, KMLT failed to follow its Procedure for taking corrective actions on its cathodic protection system before the next monitoring period, per the requirements of § 195.573(e).

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 \$116,800 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$116,800

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).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. 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. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from the receipt of this Notice. This period may be extended by written request for good cause.

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 1-2018-5016** 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: *Response Options for Pipeline Operators in Compliance Proceedings*