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

May 14, 2018

David Wortman
Vice President, Supply and Transportation
Kiantone Pipeline Corporation
c/o United Refining Company
814 Lexington Avenue
Warren, PA 16365

CPF 1-2018-5022

Dear Mr. Wortman:

From June 26, 2017 - August 14, 2017, an inspector from the New York State Department of Public Service acting as an Agent for the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected Kiantone Pipeline Corporation's (Kiantone) West Seneca terminal in West Seneca, NY.

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(s) are:

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.

Kiantone 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, Kiantone failed to follow its *Annual Cathodic Protection and New Cathodic Protection Systems Survey Procedure*, dated 5/28/2002 (Annual Cathodic Protection Procedure), regarding the maximum interval between breakout tank cathodic protection surveys.

During the inspection, the PHMSA inspector reviewed Kiantone's Annual Cathodic Protection Procedure, which stated in part:

> *"Section II – Breakout Tanks Cathodic Protection Survey, as required by Part 195.573(d), to ensure it is operated and maintained in accordance with API 651, which recommends the survey to be conducted annually. This survey will be done once per calendar year at intervals not exceeding 15 months."*

The PHMSA inspector also reviewed cathodic protection survey records for West Seneca Terminal's Tank 701, Tank 702, and Tank 703. The records showed that cathodic protection tests were performed on February 1, 2016 and June 20, 2017, for an inspection interval of approximately 16.5 months. This exceeds the 15-month maximum interval defined in Kiantone's Annual Cathodic Protection Procedure by 1.5 months.

Therefore, Kiantone failed to follow its Annual Cathodic Protection Procedure by exceeding the maximum interval between cathodic protection surveys on 3 breakout tanks at its West Seneca Terminal.

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 $23,100 as follows:

Item number	PENALTY
1	$23,100

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 1-2018-5022** 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*