

WARNING LETTER

OVERNIGHT EXPRESS DELIVERY

April 30, 2020

Mr. Myron Turfitt
President and Chief Operating Officer
United Refining Company
15 Bradley Street, PO Box 780
Warren, Pennsylvania 16365

CPF 1-2020-5009W

Dear Mr. Turfitt:

From July 22, 2019 to October 10, 2019, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) and an inspector from the New York Department of Public Service (NY DPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected Kiantone Pipeline Corporation's (Kiantone) facilities at Warren, Pennsylvania and West Seneca Terminal, Tonawanda, New York.

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 (CFR). The item(s) 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 *Operations, Maintenance & Emergency Response Procedures Manual* (Manual) by not surface patrolling its pipeline right of way with overhanging vegetation growth that restricted aircraft view.

During the inspection, the NY DPS inspector reviewed Kiantone's Manual. The Manual stated in part:

13.2 CONTINUING SURVEILLANCE PROGRAM[Version 2012-0104]

... Kiantone Pipeline facilities are patrolled by aircraft when the weather is favorable. ... Areas along the pipeline ROW with overhanging vegetation growth (i.e. trees or brush) that restrict view and can not be adequately patrolled by air are surfaced patrolled as needed. Aerial patrols pay particular attention to areas designated as HCAs.

During the field inspection, the NY DPS inspector observed right of way conditions on various locations along the pipeline between the West Seneca Terminal and the Gowanda Pump Station (near MLV 4, Genesee Rd, Jennings Rd, MLV 5, Allen Rd, and near the Gowanda Pump Station) that had overhanging vegetation growth restricting view by aircraft. Kiantone indicated that it exclusively conducted aerial right of way patrols by helicopter and plane. Kiantone stated that it was in the process of clearing the canopy for these right of ways for the first time since the pipeline was constructed in 1971.

Therefore, Kiantone failed to follow its Manual for conducting normal operations and maintenance activities and handling abnormal operations and emergencies.

2. § 195.412 Inspection of rights-of-way and crossings under navigable waters.

(a) Each operator shall, at intervals not exceeding 3 weeks, but at least 26 times each calendar year, inspect the surface conditions on or adjacent to each pipeline right-of-way. Methods of inspection include walking, driving, flying or other appropriate means of traversing the right-of-way.

Kiantone failed to, at intervals not exceeding 3 weeks, but at least 26 times each calendar year, inspect the surface conditions on or adjacent to each pipeline right of way.

During the inspection, the NY DPS inspector reviewed Kiantone's 2018 Annual Patrol Matrix records, which indicated that the right of way of its 12" crude pipeline was inspected for surface conditions on 10/22/18 and 11/23/18, which exceeded 3 weeks. Kiantone could not provide any other record of inspection of their pipeline right of way during this time.

Therefore, Kiantone failed to inspect the surface conditions on or adjacent to each pipeline right of way at intervals not exceeding 3 weeks.

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violation occurring on or after November 2, 2015 and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022. 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. We have reviewed the circumstances and supporting documents involved in this case, and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to correct the item(s) identified in this letter. Failure to do so will result in Kiantone Pipeline Corporation being subject to additional enforcement action.

Be advised that all material you submit in response to this enforcement action is subject to being 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).

No reply to this letter is required. If you choose to reply, please submit all correspondence in this matter to Robert Burrough, Director, PHMSA Eastern Region, 840 Bear Tavern Road, Suite 300, West Trenton, NJ 08628. Please refer to **CPF 1-2020-5009W** 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 USB flash drive accompanied by the original paper copy to the Eastern Region Office.

Sincerely,

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

CC: Dave Wortman, Vice President, Supply and Transportation (via email)
James Hare, Pipeline Manager, Kiantone Pipeline Corporation (via email)
Dan Sobina, Safety Manager, Kiantone Pipeline Corporation (via email)