

WARNING LETTER

OVERNIGHT EXPRESS DELIVERY

June 16, 2020

Wayne Simmons
Chief Operating Officer-Products Pipelines
Kinder Morgan
1001 Louisiana Street, Suite 1000
Houston, Texas 77002

CPF 1-2020-5010W

Dear Mr. Simmons:

On April 22, 2019 to August 2, 2019, an inspector from the Virginia State Corporation Commission, Division of Pipeline Safety (VA SCC), acting as Agent for the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) performed an integrated inspection of Kinder Morgan Southeast Terminals' (KMST) facilities in both Richmond and Newington, Virginia.

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 items inspected and the probable violations are:

1. **§ 195.404 Maps and records.**
 - (a) **Each operator shall maintain current maps and records of its pipeline systems that include at least the following information:**
 - (1) ...
 - (3) **The maximum operating pressure of each pipeline.**

KMST failed to maintain current records of its pipeline systems that include the maximum operating pressure (MOP) of each pipeline. Specifically, KMST was unable to provide records of the current MOP of facility piping at the Richmond 1 Terminal and Richmond 2 Terminal.

During the inspection, the VA SCC inspectors conducted a records review of MOP documentation and requested MOP records of its facility piping with respect to the Richmond 1 Terminal and Richmond 2 Terminal. KMST was unable to produce the records requested. VA SCC provided KMST with a Notice of Investigation (NOI) on June 16, 2019, identifying potential violations. In response to the NOI, the KMST performed MOP calculations on July 6, 2019, and provided the calculations to VA SCC.

Therefore, KMST failed to maintain current records of its pipeline systems that include the maximum operating pressure of each pipeline.

2. § 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.

KMST failed to inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to American Petroleum Institute Standard 653, 3rd edition (API 653) (incorporated by reference, see § 195.3(b)(19)). Specifically, KMST exceeded the maximum interval for external breakout tank inspections for three tanks located at the Newington 1 Terminal, as prescribed in API 653, Section 6.3.2.1.

API 653 stated in part:

Section 6 – INSPECTION

6.3 INSPECTIONS FROM THE OUTSIDE OF THE TANK

6.3.2 External Inspection

6.3.2.1 All tanks shall be given a visual external inspection by an authorized inspector. This inspection shall be called the external inspection and must be conducted at least every 5 years or *RCA/4N* years (where *RCA* is the difference between the measured shell thickness and the minimum required thickness in mils, and *N* is the shell corrosion rate in mils per year) whichever is less. Tanks may be in operation during this inspection.

During the inspection, the VASCC inspectors conducted a records review of breakout tank inspections for KMST’s Newington 1 Terminal. The records demonstrated that breakout tanks 7, 14, and 19 exceeded the maximum interval for external inspection. Table 1 below, created by VASCC based on the information KMST provided in external inspection records, lists external inspections that exceeded the maximum interval.

Table 1: External inspections exceeding maximum interval

| Newington 1 Terminal | Date External Inspection | Date External Inspection | Maximum Interval |
|----------------------|--------------------------|--------------------------|------------------|
| Tank 7 | 4/28/2011 | 8/17/2016 | 5 years |
| Tank 14 | 3/8/2011 | 4/18/2016 | 5 years |
| Tank 19 | 6/13/2012 | 6/28/2017 | 5 years |

Therefore, KMST failed to inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to the interval requirements of API 653 in three instances.

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 Kinder Morgan Southeast Terminals 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 1-2020-5010W** 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: John W. Schlosser, Operating Officer, President, Terminals
Quintin Frazier, Kinder Morgan Director of Compliance (via email)