

JUN 9 2011

Mr. Ron McClain
Vice President, Operations & Engineering
Kinder Morgan Energy Partners, L.P.
500 Dallas Street, Suite 1000
Houston, TX 77002

Re: CPF No. 2-2011-5002

Dear Mr. McClain:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$65,000. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated March 3, 2011. This enforcement action is now closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, Pipeline Safety
Mr. Wayne T. Lemoi, Director, Southern Region, PHMSA

Mr. Charles E. Fox, Vice President, Kinder Morgan CO2 Company, L.P.
500 Dallas Street, Suite 1000, Houston, TX 77002

CERTIFIED MAIL - RETURN RECEIPT REQUESTED [7005 1160 0001 0075 9367]

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

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In the Matter of)	
)	
Kinder Morgan Energy Partners, L.P.,)	CPF No. 2-2011-5002
)	
Respondent.)	
)	

FINAL ORDER

On June 14-18, June 28 - July 2, July 12-15, and July 27-30, 2010, 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 certain integrity management programs of Kinder Morgan Energy Partners, L.P. (KMEP or Respondent), in Houston, Texas; Orange, California; Alpharetta, Georgia; and Iowa City, Iowa. During the inspection, PHMSA inspectors discovered an alleged violation in a High Consequence Area (HCA),¹ on the Wink to Guadalupe Pipeline system (Wink Pipeline), which is operated by Kinder Morgan CO2 Company, L.P (KMCO2).² KMEP’s gas pipeline systems include approximately 9,581 miles of interstate pipelines, 5,350 miles of which are covered segments in HCAs.

As a result of the inspection, the Director, Southern Region, OPS (Director), issued to Respondent, by letter dated February 16, 2011, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that KMEP had violated 49 C.F.R. § 195.452 and proposed assessing a civil penalty of \$65,000 for the alleged violation.

KMCO2 and KMEP responded to the Notice by letter dated March 10, 2011, as supplemented by letter dated March 11, 2011 (collectively, Response).³ The company did not contest the

¹ A “High Consequence Area” or “HCA” is an area defined as either a *commercially navigable waterway* or a waterway where a substantial likelihood of commercial navigation exists; a *high population* area or urbanized area, as defined in 49 C.F.R. § 195.450 (2); an *other populated* area or a place that contains a concentrated population, as defined in 49 C.F.R. § 195.450 (3); or an *unusually sensitive* area, as defined in 49 C.F.R. § 195.450 (4).

² See http://www.kindermorgan.com/investor/KMP_2010_annual_report_financials.pdf. (last accessed May 5, 2011)

³ KMEP’s March 11, 2011 response letter stated that KMCO2 owned and operated the Wink Pipeline and that it would directly provide a substantive response to the Notice. However, KMCO2’s integrity management program is under the auspices of KMEP’s corporate integrity management program.

allegations of violation and paid the proposed civil penalty of \$65,000, as provided in 49 C.F.R. § 190.227. Payment of the penalty serves to close the case with prejudice to Respondent.

FINDING OF VIOLATION

In its Response, KMEP did not contest the allegations in the Notice that it violated 49 C.F.R. Part 195, as follows:

Item 1A: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(2), which states:

§ 195.452 Pipeline integrity management in high consequence areas.

(a) . . .

(h) *What actions must an operator take to address integrity issues?*

(1) . . .

(2) *Discovery of condition.* Discovery of a condition occurs when an operator has adequate information about the condition to determine that the condition presents a potential threat to the integrity of the pipeline. An operator must promptly, but no later than 180 days after an integrity assessment, obtain sufficient information about a condition to make that determination, unless the operator can demonstrate that the 180-day period is impracticable.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(2) by failing to obtain and use information from an assessment to make a determination that a condition presented a potential threat to the integrity of the pipeline, within 180 days of the assessment. Specifically, the Notice alleged that KMEP completed an integrity assessment on May 9, 2008, but did not obtain sufficient information to make a determination of discovery that a “60 day condition” existed until March 30, 2009, or 325 days following the completion of the assessment and 180 days past the regulatory deadline. The Notice further alleged that Respondent failed to show that the 180-day period was impracticable in this case.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(h)(2) by failing to obtain sufficient information about a condition within 180 days following completion of its May 9, 2008 integrity assessment.

Item 1B: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(4)(ii)(B), which states:

§ 195.452 Pipeline integrity management in high consequence areas.

(a) . . .

(h) *What actions must an operator take to address integrity issues?*

(1) . . .

(4) *Special requirements for scheduling remediation-*

(i) . . .

(ii) *60-day conditions.* Except for conditions listed in paragraph

(h)(4)(i) of this section, an operator must schedule evaluation and remediation of the following conditions within 60 days of discovery of condition.

(A) . . .

(B) A dent located on the bottom of the pipeline that has any indication of metal loss, cracking or a stress riser.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(4)(ii)(B) by failing to schedule evaluation and remediation within 60 days of conducting a March 30, 2009 assessment that identified a dent on the bottom of a pipeline segment. Specifically, the Notice alleged that on March 30, 2009, KMEP discovered a dent that indicated metal loss on a portion of the Wink Pipeline located in an HCA.⁴ Pursuant to regulation, “a dent located on the bottom of the pipeline that has any indication of metal loss” must be remediated within 60 days of discovery. KMEP failed to remediate until June 27, 2010, or 394 days past the regulatory deadline.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(h)(4)(ii)(B) by failing to schedule an evaluation and remediation of a 60-day condition within the regulatory timeframe.

In summary, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of **\$65,000**, which has already been paid by Respondent.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued

⁴ “KMEP records described it as a ‘deformation anomaly dent-detected w/ metal loss’ on the bottom of the pipeline (6:09 position).” Pipeline Safety Violation Report, at 6.