

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

February 16, 2011

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

CPF 2-2011-5002

Dear Mr. McClain:

On June 14-18, June 28 - July 2, July 12-15, and July 27-30, 2010, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) inspected the Kinder Morgan Energy Partners, L.P. (KMEP) integrity management program (IMP) in Houston, TX, Orange, CA, Alpharetta, GA, and Iowa City, IA pursuant to Chapter 601 of 49 United States Code

As a result of the inspection, it appears that KMEP has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violations are:

1. **§195.452 Pipeline integrity management in high consequence areas.**
.... (f) *What are the elements of an integrity management program? An integrity management program begins with the initial framework. An operator must continually change the program to reflect operating experience, conclusions drawn from results of the integrity assessments, and other maintenance and surveillance data, and evaluation of consequences of a failure on the high consequence area. An operator must include, at minimum, each of the following elements in its written integrity management program:*
.... (4) **Criteria for remedial actions to address integrity issues raised by the assessment methods and information analysis (see paragraph (h) of this section);**

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

.... (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.

.... (4) Special requirements for scheduling for remediation-

.... (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.

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

Item 1A: §195.452(h)(2)

KMEP did not obtain sufficient information to make a determination of discovery for a “60-day condition” on the L304, Wink to Guadalupe 20-inch pipeline within 180 days after completing an integrity assessment. Moreover, KMEP did not demonstrate that the 180-day period was impracticable.

KMEP assessment records for the L304, Wink to Guadalupe 20-inch pipeline show that the pipeline was assessed by a Rosen XGP Caliper In-Line Inspection (ILI) tool and that the tool was removed from the pipeline after completing its assessment on May 9, 2008.

On March 30, 2009, KMEP determined that a “60-day condition” existed on its pipeline on joint number 76440 at odometer reading 308951.91, which is located in a High Consequence Area (HCA). KMEP made the determination of the “60-day condition” 325 days after the integrity assessment was completed.

- **Item 1B: §195.452(h)(4)(ii)(B)**

KMEP did not schedule an evaluation or remediate a “60-day condition” in an HCA on the L304, Wink to Guadalupe 20-inch pipeline within 60 days of discovery.

KMEP assessment records show that on March 30, 2009, KMEP completed the discovery of a “60-day condition” on its L304, Wink to Guadalupe 20-inch pipeline in joint number 76440 at odometer reading 309051.91, which is located in an HCA. KMEP records described it as a “*deformation anomaly dent-detected w/ metal loss*” i.e. a dent with metal loss located on the bottom of the pipeline (6:09 position).

KMEP remediated this “60-day condition” on June 27, 2010; 454 days after KMEP discovered the “60-day condition” and 394 days past the 60-day regulatory deadline.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation and has recommended that you be preliminarily assessed a civil penalty of \$65,000 as follows:

<u>Item number</u>	<u>PENALTY</u>
1A	\$32,500
1B	\$32,500

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. 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). 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.

In your correspondence on this matter, please refer to **CPF 2-2011-5002** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Wayne T. Lemoi
Director, Office of Pipeline Safety
PHMSA Southern Region

Enclosure: *Response Options for Pipeline Operators in Compliance Proceedings*