

April 3, 2015

Mr. Craig O. Pierson
President
Marathon Pipe Line LLC
539 South Main Street
Findlay, OH 45840-3229

Re: CPF No. 2-2014-5003

Dear Mr. Pierson:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$24,400, and specifies actions that need to be taken by Marathon Pipe Line LLC to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the compliance order completed, as determined by the Director, Southern Region, this enforcement action will be 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. Wayne T. Lemoi, Director, Southern Region, OPS
Mr. Randall W. Bishop, Environmental, Safety & Regulatory Compliance,
Marathon Pipe Line, LLC

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

_____)	
In the Matter of)	
)	
Marathon Pipe Line, LLC,)	CPF No. 2-2014-5003
)	
Respondent.)	
_____)	

FINAL ORDER

On various dates in July 2012 and February 26, 2014, 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 the facilities and records of Marathon Pipe Line, LLC (Marathon or Respondent) in Findlay, Ohio. Marathon has ownership interest in approximately 2,900 miles of pipeline across nine states and associated crude oil and product storage assets in the Midwest and Gulf Coast regions.¹

As a result of the inspection, the Director, Southern Region, OPS (Director), issued to Respondent, by letter dated May 5, 2014, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Marathon violated 49 C.F.R. §§ 195.452 and 195.588 and proposed assessing a civil penalty of \$24,400 for one of the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations.

Marathon responded to the Notice by letter dated June 5, 2014 (Response). The company contested the allegations, offered additional information in response to the Notice, and requested that the proposed civil penalty be reconsidered.

Marathon also proposed a compromise offer, which OPS addressed by letter dated June 30, 2014. The parties were unable to reach an agreement on the outstanding issues and no settlement was reached. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 195, as follows:

¹ http://www.marathonpipeline.com/Who_We_Are/Investor_Information/ (last accessed December 1, 2014).

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.452, which states in relevant part:

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(c) *What must be in the baseline assessment plan?* (1) An operator must include each of the following elements in its written baseline assessment plan:

(i) The methods selected to assess the integrity of the line pipe. An operator must assess the integrity of the line pipe by any of the following methods. The methods an operator selects to assess low frequency electric resistance welded pipe or lap welded pipe susceptible to longitudinal seam failure must be capable of assessing seam integrity and of detecting corrosion and deformation anomalies.

(A)

(C) External corrosion direct assessment in accordance with § 195.588; or

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(c) by failing to comply with § 195.588 in the development and use of its External Corrosion Direct Assessment (ECDA) procedures for baseline assessments of line pipe in cased crossings. Specifically, the Notice alleged that Marathon's ECDA procedures, *Standard MPLMNT127*, do not comport with NACE SP0502 as required by § 195.588. NACE SP0502² requires that an operator select indirect inspection tools that are capable of detecting corrosion activity and coating holidays reliably under all specific pipeline conditions encountered by the operator, or in this case, line pipe in cased crossings.

OPS alleged that Marathon's ECDA procedures Section 4.1.4³, Section 5.1.1⁴, and Section 4.1.4.1⁵ do not require that an operator select tools that reliably detect corrosion activity and coating holidays on lined pipe inside a steel casing. Section 4.1.4 requires that casing test methods provide information about the electrical status of casings; Section 5.1.1 requires two or more testing methods to determine casing electrical isolation. However, neither section addresses the overall ability of these tools to detect corrosion activity and coating holidays.

² NACE SP0502 Section 3.4.1. states "The pipeline operator shall select indirect inspection tools based on their ability to detect corrosion activity and coating holidays reliably under the specific pipeline conditions to be encountered.

³ Section 4.1.4 (Selection of Indirect Inspection Tools) "Casing test methods are expected to provide information about the electrical status of casings (i.e. metallic or electrolytic short)." Pipeline Safety Violation Report (Violation Report), (May 5, 2014) (on file with PHMSA), at Exhibit A.

⁴ Section 5.1.1 (Electrical Test Methods to Verify Casing Isolation) "Two or more test methods shall be selected to determine the casing electrical isolation." Violation Report, at Exhibit A.

⁵ Section 4.1.4.1 (Qualitative Tests for Casing Isolation). Violation Report, at Exhibit A.

In addition, Section 4.1.4.1⁶ and 4.1.4.2⁷ of Marathon's procedure described six testing methods, four of which were based on indirect inspection tools listed in Table 2 of NACE SP0502, Section 3.4.1. However, neither of these procedures included "additional considerations," which Table 2 explicitly stated must be applied to the five indirect inspection tools displayed in the table.

OPS also alleged that *Standard MPLMNT127* Section 6.1.1⁸ contravened NACE SP0502 Section 5 *Direct Examination*, as it did not require direct examinations of either line pipe within casings for prioritized indications or in the ECDA Region identified as most likely for external corrosion.

In its Response, Marathon stated that, even though its ECDA procedures predated Section 195.588 and PHMSA's approval of ECDA for liquid pipeline assessments, the company has updated its procedures in order to comply with § 195.588. Notwithstanding this timing, the company said its ECDA procedures utilize indirect surveys, along with additional considerations, to test the electrical status of each casing. Marathon stated that, in the experience of the company and the industry, "in the absence of a metallic or electrolytic "short," . . . it is reasonable to expect that there is minimal risk of external corrosion of the carrier pipe within the casing."⁹ Nevertheless, Marathon notified PHMSA's Southern Region on April 30, 2014, that it would no longer use ECDA procedures as a sole assessment method for cased piping.

OPS strenuously objected to Marathon's statement that, in the absence of a metallic or electrolytic short, there is a minimal risk of external corrosion within cased piping. OPS noted that the Respondent did not cite any data in support of its assertion beyond its general statement regarding industry experience and then specifically cited a 1997 Marathon failure. In this accident, Marathon conducted an in-line-inspection (ILI) after clearing a short from the casing to the line pipe. Nevertheless, the line failed due to external corrosion and Marathon found no evidence that the casing was shorted to the line pipe prior to the accident.

According to § 195.588, when performing external corrosion direct assessment, operators must adhere to the requirements of NACE SP0502. While there are sections of the pipeline regulations that allow for operators to utilize operating experience and judgment in operating and maintaining their system, this particular section sets forth prescriptive requirements and those requirements were not followed in this case.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(c) by failing to comply with § 195.588 in the development and use of its ECDA procedures for baseline assessments of line pipe in cased crossings.

⁶ Section 4.1.4.1 (Qualitative Tests for Casing Isolation). Violation Report, at Exhibit A.

⁷ Section 4.1.4.2 (Quantitative Test for Casing Isolation). Violation Report, at Exhibit A.

⁸ Section 6.1.1 "The Direct Examination Step requires excavations to expose the pipe upstream and downstream of the casing then a detailed inspection can be performed." Violation Report, at Exhibit A.

⁹ Marathon Response to the Notice (Response), at 3.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(j), which states in relevant part:

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(j) *What is a continual process of evaluation and assessment to maintain a pipeline's integrity?*

(1)

(5) *Assessment methods.* An operator must assess the integrity of line pipe by any of the following methods. The methods an operator selects to assess low frequency electric resistance welded pipe or lap welded pipe susceptible to longitudinal seam failure must be capable of assessing seam integrity and of detecting corrosion and deformation anomalies.

(i)

(iii) External corrosion direct assessment in accordance with § 195.588;

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(j) by failing to comply with § 195.588 in the development and use of its ECDA procedures for continual assessments of line pipe in cased crossings. Specifically, the Notice alleged that Section 4.1.4 and Section 6.1.1 of Marathon's ECDA procedures, *Standard MPLMNT127*, do not comport with NACE SP0502, as required by § 195.588.

In its Response, Marathon stated that its defense to this Item is the same as in Item 1, above. I found this defense unconvincing. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(j) by failing to comply with § 195.588 in the development and use of its ECDA procedures for continuous assessments of line pipe in cased crossings.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(l), which states in relevant part:

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(l) *What records must be kept?* (1) An operator must maintain for review during an inspection:

(i)

(ii) Documents to support the decisions and analyses, including any modifications, justifications, variances, deviations and determinations made, and actions taken, to implement and evaluate each element of the integrity management program listed in paragraph (f) of this section.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(l) by failing to maintain documents to support its decisions and analyses for review during an inspection, including any modifications, justifications, variances, deviations, and determinations made, and actions taken, to implement and evaluate each element of the integrity management program listed in

§ 195.452(f). Specifically, the Notice alleged that Marathon failed to provide documents during the OPS inspection to support decisions and analyses used to implement and evaluate its ECDA procedures.

In its Response, Marathon disagreed that it was in violation of this recordkeeping requirement and it submitted several worksheets, procedures, and other forms to demonstrate that it complied with this regulation. The Respondent requested that OPS withdraw the proposed penalty for this Item and approve Marathon's existing \$42,858 monetary commitment to a University of Akron research project intended to develop new methodology for characterizing and quantifying corrosion sites on cased piping.¹⁰ Irrespective of its submission following the inspection, Marathon failed to have these records available at the time of inspection.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(l) by failing to maintain for review during an inspection documents to support its decisions and analyses to implement and evaluate each element of the integrity management program listed in § 195.452(f).

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 195.588(b)(1), which states:

§ 195.588 What standards apply to direct assessment?

(a)

(b) The requirements for performing external corrosion direct assessment are as follows:

(1) *General.* You must follow the requirements of NACE SP0502 (incorporated by reference, *see* § 195.3). Also, you must develop and implement a External Corrosion Direct Assessment (ECDA) plan that includes procedures addressing pre-assessment, indirect examination, direct examination, and post-assessment.

The Notice alleged that Respondent violated 49 C.F.R. § 195.588 by failing to follow the requirements of NACE SP0502 when performing ECDA. Specifically, the Notice alleged that, in 2010 and 2011, Marathon conducted a baseline assessment of its Lebanon Junction Mid-Valley to Lebanon Junction 20-inch pipeline. During this assessment, Marathon used its ECDA procedures, which do not comply with NACE SP0502. The Notice also alleged that, in 2010 and 2011, Marathon conducted a continued assessment of its pipeline in several locations in and around the Lima Tank Farm.¹¹

In its Response, Marathon restated its defense to Items 1 and 2, in which it defended its ECDA procedures as compliant with NACE SP0502. For the reasons stated above in the discussion of Item 1, I disagree with Marathon's characterization of its procedures and find that they do not comply with § 195.588.

¹⁰ Response, at 6.

¹¹ Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice), at 5.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.588 by failing to follow the requirements of NACE SP0502 when performing ECDA.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$100,000 per violation for each day of the violation, up to a maximum of \$1,000,000 for any related series of violations. In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; the Respondent's ability to pay the penalty and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$24,400 for the violations cited above.

Item 3: The Notice proposed a civil penalty of \$24,400 for Respondent's violation of 49 C.F.R. § 195.452(l), for failing to provide documents to OPS during its inspection to support the decisions and analyses to implement and evaluate its ECDA procedures. Marathon submitted certain reports addressing its ECDA procedures subsequent to the inspection. Given that it submitted certain documents prior to OPS's last visit, which was conducted in 2014, Marathon argued that the civil penalty should be withdrawn and redirected to an existing research project. I find that Marathon violated this regulation by failing to keep the required scope of documents for review during the inspection. The purpose of this requirement is to ensure that OPS can review the documents in real time, along with the inspection. Irrespective of the company's subsequent submission, it failed to comply with a core component of the regulation. In addition, the records provided by Marathon do not provide a comprehensive view of the decisions and analyses used in the inspection of Respondent's integrity management program. Therefore, I do not see any basis for reducing or withdrawing the penalty on the basis of the gravity of the violation, respondent's culpability, history of prior offenses, or good faith in attempting to comply. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$24,400 for violation of 49 C.F.R. § 195.452(l).

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total civil penalty of **\$24,400**.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to be made by wire transfer through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMK-325), Federal Aviation Administration, Mike

Monroney Aeronautical Center, P.O. Box 269039, Oklahoma City, Oklahoma 73125. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the \$24,400 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a district court of the United States.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1, 2, and 4 in the Notice for violations of 49 C.F.R. §§ 195.452 and 195.588. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 195.452(c) and (j) (**Items 1 and 2**), Respondent must modify its written integrity management ECDA procedures for completing baseline assessments and reassessments such that the procedures are in accordance with § 195.588 within 120 days of issuance of this Final Order. After the procedures have been modified, Respondent must submit all records and documentation showing modification of the plans to OPS for inspection within 60 days of completing the modification.
2. With respect to the violation of § 195.588 (**Item 4**), Respondent must complete the following assessments for the Lebanon Junction Mid-Valley to Lebanon Junction 20-inch, the Lima Metering-Lima Tank Farm 22-inch and 16-inch, and the Lima Metering-Lima Maumee 24-inch – 16-inch pipelines:
 - (a) Assess the line pipe in casings in accordance with § 195.452(c)(1)(i) or 195.452(j)(5), as appropriate, within 150 days of the issuance of this Final Order; and
 - (b) Notify OPS, Southern Region, of the assessment method(s) to be used and provide the procedures for performing the assessments at least 120 days before assessing the line pipe; and
 - (c) Notify OPS, Southern Region, of the date that each assessment will be conducted at least 30 days prior to assessing the line pipe; and
 - (d) Notify OPS, Southern Region, within 3 days of completing each assessment; and
 - (e) Submit all records and documentation showing completion of the assessments to OPS, Southern Region, within 30 days of completing each assessment.

3. PHMSA requests that Marathon maintain and submit documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director, Southern Region. Please report these costs in two categories: (1) total costs associated with preparation/revision of plans, procedures, studies, and analyses; and (2) total costs associated with replacements, additions, and other changes to pipeline infrastructure.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000 for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a Petition for Reconsideration of this Final Order. The petition must be sent to: Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. PHMSA will accept petitions received no later than 20 days after receipt of service of this Final Order by the Respondent, provided they contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.215. The filing of a petition automatically stays the payment of any civil penalty assessed. Unless the Associate Administrator, upon request, grants a stay, all other 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