

December 10, 2018

Mr. Tom Schmitt  
President  
Hunt Refining Company  
2200 Jack Warner Parkway, Suite 400  
Tuscaloosa, AL 35401

**Re: CPF No. 2-2017-5004**

Dear Mr. Schmitt:

Enclosed please find the Final Order issued in the above-referenced case to your subsidiary, Hunt Crude Oil Supply Company, LLC. It makes one finding of violation and assesses a civil penalty of \$19,600. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon receipt of payment. Service of the Final Order by certified mail is effective upon the date of mailing, as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

Enclosure

cc: Mr. James Urisko, Director, Southern Region, Office of Pipeline Safety, PHMSA

CERTIFIED MAIL - RETURN RECEIPT REQUESTED



**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 195.573(a)(1), which states:

**§ 195.573 What must I do to monitor external corrosion control?**

(a) *Protected Pipelines.* You must do the following to determine whether cathodic protection required by this subpart complies with § 195.571:

(1) Conduct tests on the protected pipeline at least once each calendar year, but with intervals not exceeding 15 months. However, if tests at those intervals are impractical for separately protected short sections of bare or ineffectively coated pipelines, testing may be done at least once every 3 calendar years, but with intervals not exceeding 39 months.

The Notice alleged that Respondent violated 49 C.F.R. § 195.573(a)(1) by failing to conduct tests at least once each calendar year, but with intervals not exceeding 15 months, on its 10-inch line to ensure that cathodic protection (CP) complied with 49 C.F.R. § 195.571. Specifically, the Notice alleged that Hunt's 10-inch Soso-to-Heidelberg line (a 21-mile idled pipeline) is under CP from an impressed current system, but that Hunt failed to conduct measurements of pipe-to-soil potentials in 2014, 2015 and 2016. The entries in Hunt's records of the annual surveys for those years indicated "No CP" for all CP test stations included in the survey. PHMSA did recognize that multiple pipe-to-soil potential readings taken during the PHMSA inspection indicated adequate levels of CP under the -850mV "instant-off" criteria adopted by Hunt.

Respondent did not contest this allegation of violation and acknowledged that the annual surveys for 2014-2016 were not performed. Respondent explained, however, that this was due to miscommunication with its contractor and that there was no safety risk because the pipeline had been purged of product and maintained with adequate cathodic protection. This mitigating information will be considered below with regard to the proposed civil penalty.

Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.573(a)(1) by failing to conduct tests at least once each calendar year, but with intervals not exceeding 15 months, on its 10-inch line to ensure that CP complied with 49 C.F.R. § 195.571

This finding of violation will be considered a prior offense 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 \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.<sup>2</sup> 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

---

<sup>2</sup> These amounts are adjusted annually for inflation. *See, e.g.*, Pipeline Safety: Inflation Adjustment of Maximum Civil Penalties, 82 Fed. Reg. 19325 (April 27, 2017).

degree of Respondent's culpability; the history of Respondent's prior offenses; 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 \$19,600 for the violation cited above.

**Item 1:** The Notice proposed a civil penalty of \$19,600 for Respondent's violation of 49 C.F.R. § 195.573(a)(1), for failing to conduct tests on its 10-inch line to ensure that the CP complied with 49 C.F.R. 195.571. Hunt did not contest this allegation of violation but provided information to mitigate the civil penalty. Respondent noted that the violation occurred because of a series of internal communication errors and argued the danger was minimized by the fact that the line had been purged of product and had cathodic protection continuously applied at all times. Respondent also noted that the company patrolled and maintained the right-of-way; responded to one-call locate requests; and planned to perform a hydrostatic pressure test and inline inspection of the pipeline before returning it to service.

The information provided by Respondent is most relevant to the gravity of the violation. With regard to gravity, the Violation Report noted that Respondent's violation of § 195.573(a)(1) "minimally affected" pipeline safety, which PHMSA considers the lowest level of gravity. While I agree with Respondent that the violation impacted safety to a lesser degree because the pipeline had cathodic protection and was purged, this minimal effect on safety was already factored into the penalty amount proposed by PHMSA. Therefore, I find no reason to reduce the penalty based on this information. In addition, the fact that the violation resulted from a miscommunication does not warrant reducing the penalty because Respondent was responsible for ensuring compliance and remains culpable even where a violation is due to an oversight.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of **\$19,600** for violation of 49 C.F.R. § 195.573(a)(1).

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, 6500 S MacArthur Blvd, Oklahoma City, Oklahoma 79169. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the \$19,600 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.

### WARNING ITEMS

With respect to Items 2 through 7, the Notice alleged probable violations of Part 195 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 195.573(e) **(Item 2)** — Respondent's alleged failure to correct identified corrosion-control deficiencies, as required by § 195.401(b), at multiple locations;

49 C.F.R. § 195.573(d) **(Item 3)** — Respondent's alleged failure to inspect the CP system used to control corrosion on the bottom of the aboveground breakout tanks at its Yellow Creek Station to ensure that operation and maintenance were done in accordance with API RP 651 (incorporated by reference, see § 195.3);

49 C.F.R. § 195.555 **(Item 4)** — Respondent's alleged failure to verify that its corrosion-control supervisor maintained a thorough knowledge of that portion of the corrosion control procedures established under § 195.402(c)(3) for which the supervisor was responsible;

49 C.F.R. § 195.438 **(Item 5)** — Respondent's alleged failure to install signs prohibiting smoking and open flames at its Boligee booster station, as well as at its Quitman facility;

49 C.F.R. § 195.436 **(Item 6)** — Respondent's alleged failure to provide protection from vandalism and unauthorized entry at its Quitman facility, where a portion of the fence was broken; and

49 C.F.R. § 195.581(a) **(Item 7)** — Respondent's alleged failure to clean and coat each pipeline or portion of pipeline that was exposed to the atmosphere at several locations that exhibited signs of atmospheric corrosion on uncoated portions.

Hunt presented additional information in its Response regarding these items, including information showing that it had taken certain actions to address the cited items. If OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2<sup>nd</sup> Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address, no later than 20 days after receipt of service of the Final Order by Respondent. Any petition submitted must contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The filing of a petition automatically stays the payment of any civil penalty assessed. The other terms of the order, including any corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay. If Respondent submits payment of the civil penalty, the Final Order becomes the final

administrative decision and the right to petition for reconsideration is waived.

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

December 10, 2018

---

Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

---

Date Issued