

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

December 21, 2017

Mr. Ron McClain
President, Product Pipelines
Plantation Pipe Line Company
Kinder Morgan Energy Partners, L.P.
500 Dallas Street, Suite 100
Houston, TX 77002

CPF 2-2017-5007

Dear Mr. McClain:

From August 9, 2016 to December 16, 2016, State Inspectors from the Virginia State Corporation Commission (VA SCC) acting as Agents for the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected the Plantation Pipeline Company (PPL) pipeline facilities in Richmond, Virginia.

As a result of the inspection, it is alleged that PPL has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

1. **§195.452 Pipeline integrity management in high consequence areas.**
... (h) What actions must an operator take to address integrity issues?—
(1) General requirements. An operator must take prompt action to address all anomalous conditions the operator discovers through the integrity assessment or

information analysis. In addressing all conditions, an operator must evaluate all anomalous conditions and remediate those that could reduce a pipeline's integrity. An operator must be able to demonstrate that the remediation of the condition will ensure the condition is unlikely to pose a threat to the long-term integrity of the pipeline. An operator must comply with §195.422 when making a repair.
. . . (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.

Plantation failed to meet the regulation because it did not promptly, but no later than 180-days after an integrity assessment, obtain sufficient information about identified conditions to determine whether the conditions presented potential threats to the integrity of the pipeline. Furthermore, Plantation did not demonstrate to the Virginia State Corporate Commission (VASCC) inspectors that the 180-day period for discovery of said conditions was impracticable.

During its inspection, the VASCC reviewed documentation of an April 16, 2015 integrity assessment of Plantation's 12-inch-14W Richmond Junction to Newington Station line (14W-12 line). The integrity assessment was conducted using in-line inspection (ILI) tools. An internal email, dated March 3, 2016 indicates that Plantation received the ILI vendor's *Final Report* on October 12, 2015 (Day 179 after the assessment). Records indicate that Plantation reviewed the report on October 13, 2015 (Day 180 after the assessment). Based on this review, the vendor issued a *Corrected Final Report*, which was received by Plantation on March 1, 2016 (Day 320 after the assessment). This *Corrected Final Report* identified forty-five (45) 180-day conditions^a (*conditions*). On March 9, 2017, the VASCC requested Plantation's statement of the official date of discovery for the identified *conditions*. Plantation's response, and supporting records, indicate the discovery date for the each of the *conditions* was March 4, 2016 (Day 323 after the assessment, or 143 days beyond the allowable 180-day discovery period).

Following Plantation's statement of the official date of discovery, the VASCC requested Plantation's justification/rationale for exceeding the allowed time for discovery. In an email dated January 26, 2017, Plantation detailed the timeline for its review of the ILI vendor report, and the need for further review of the initial ILI report. However, Plantation did not justify why it took 179 days for the ILI vendor to provide the *Final Report*, and why it took another 141 days after receiving the *Final Report* for Plantation to confirm the 45 *conditions*.

2. §195.452 Pipeline integrity management in high consequence areas.

^a Specified conditions of which an operator must schedule evaluation and remediation within 180 days of discovery of the condition. Reference §195.452(h)(4)(iii).

... (i) What records must an operator keep to demonstrate compliance? (1) An operator must maintain, for the useful life of the pipeline, records that demonstrate compliance with the requirements of this subpart. At a minimum, an operator must maintain the following records for review during an inspection:

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

Plantation failed to meet the regulation because it did not maintain documents to support the decisions and analyses, including any modifications, justifications, deviations and determinations made, variances, and actions taken, that would explain why meeting the 180-day period of discovery following an integrity assessment was impracticable, as required by §195.452(h)(2)).

Plantation conducted an integrity assessment of its 14W-12 line on April 16, 2015. As a result of this assessment, forty-five 180-day conditions^b were identified. Through documentation and correspondence with the VASCC, Plantation confirmed the official date of discovery as March 4, 2016, 323 days after the assessment. Upon request for supporting documentation, Plantation conveyed to the VASCC that it did not have any written records, documented prior to the VASCC inspection, that would explain why meeting the requirement to declare discovery of conditions presenting a potential threat to the integrity of the pipeline within 180-days of an integrity assessment was impracticable.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$209,002 per violation per day the violation persists, up to a maximum of \$2,090,022 for a related series of violations. 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. The Compliance Officer has reviewed the circumstances and supporting documentation involved in Item 1 above and has recommended that you be preliminarily assessed a civil penalty of \$28,800.

Warning Item

With respect to Item 2, 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 promptly correct this item. Failure to do so may result in additional enforcement action.

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. All material submit in response to this enforcement action may be 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).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. 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. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from the receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 2-2017-5007** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

James A. Urisko
Director, Office of Pipeline Safety
PHMSA Southern Region

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