



U.S. Department
of Transportation

Pipeline and Hazardous
Materials Safety
Administration

230 Peachtree Street N.W.
Suite 2100
Atlanta, GA 30303

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

December 11, 2019

Mr. Gary Buchler
Kinder Morgan
1001 Louisiana Street, Suite 1000
Houston, Texas 77002

CPF 2-2019-3001

Dear Mr. Buchler:

From June 25, 2018 through June 28, 2018 representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) conducted an on-site pipeline safety inspection of the facilities and records of Southern LNG Company, L.L.C. (Southern LNG), in Savannah, Georgia. Southern LNG is a wholly-owned subsidiary of Kinder Morgan, Inc. (KM or Respondent), which owns or operates approximately 84,000 miles of natural gas and hazardous liquid pipelines, as well as several LNG terminals across the United States.

On May 15, 2018, following a loud noise near main fill valve (HV-21061), KM discovered that LNG leaked through HV-21061 into the insulation and eventually onto the ground. However, insulation was not removed from HV-21061 and adjacent piping until August 2, 2018, when KM discovered that HV 21061 and adjacent piping appeared to be damaged. KM concluded that:

- Air was present in the lateral line due to the ¾-inch vent valve being left open and uncapped by one of the various parties (KM or IHI Subcontractors) that used this valve for N₂ purging or venting, or was accidentally opened by scaffold builders during erection of the temporary platform near HV-21061.
- The interface between the natural gas and air in the 32-inch lateral line connected to the LNG Storage container (D-4) provided an explosive mixture.
- Combustion occurred in the 32-inch lateral line connected to D-4, resulting in a detonation and shock wave at the closed HV-21061, which in turn resulted in approximately 7-feet of pipe between D-4 and HV-21061 experiencing plastic deformation; the studs connecting

the pipe flange to HV-21061 being stretched; and the seal ring, shaft, and upper and lower bearings of HV-21061 being damaged.

On June 1, 2016, the Federal Energy Regulatory Commission (FERC) issued an "Order Granting Section 3 and Section 7 Authorizations" (FERC Order). Condition 92 of the FERC Order requires KM to report significant non-scheduled events, including safety-related incidents, to FERC within 24 hours. In addition to verbally informing FERC inspectors during a May 22, 2018 annual inspection, KM reported the initial incident in its Semi-Annual Operating Report for the period of January to April 2018. In its June 30, 2018 Semi-Annual Operating Report, KM provided an update indicating that the insulation around HV 21061 was removed, the pipe deformity was discovered, and that KM was in the process of investigating the incident.

PHMSA inspectors conducted an on-site pipeline safety inspection of the facilities and records during the weeks of June 11 and June 25, 2018. KM failed to notify PHMSA inspectors of the incident. During the week of June 25, 2018, KM representatives also responded in the negative when specifically asked if any safety-related condition and/or incident had occurred since the previous O&M inspection, which occurred during the week of July 27, 2015.

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

1. § 191.5 Immediate notice of certain incidents.

- (a) At the earliest practicable moment following discovery, but no later than one hour after confirmed discovery, each operator must give notice in accordance with paragraph (b) of this section of each incident as defined in § 191.3**

KM failed to notify PHMSA at the earliest practicable moment following discovery, but no later than one hour after confirmed discovery, of a reportable incident, in violation of 49 C.F.R. § 191.5. As of the date of this letter, KM has not notified PHMSA of the incident described above, which was discovered on August 2, 2018.

Reportable incident is defined in 49 C.F.R. § 191.3 to include the following:

(1) An event that involved a release of . . . liquefied natural gas, liquefied petroleum gas, refrigerant gas, or gas from an LNG facility, and that results in one or more of the following consequences:

....

(ii) Estimated property damage of \$50,000 or more, including loss to the operator and others, or both, but excluding cost of gas lost;

....

(3) An event that is significant in the judgement of the operator, even though it did not meet the criteria of paragraph (1) or (2) of this definition.

KM is required to notify PHMSA of an incident involving a release of LNG or natural gas from an LNG facility and causing more than \$50,000 in property damage. Note that KM

followed the recommendations of the “Kinder Morgan, Savannah, GA, Inspection 32-inch Line to Tank D4” report prepared by TEAM Industrial Services, Inc. dated August 27, 2018 (TEAM Report), and removed and replaced the damaged components. The estimated cost associated with the defects and physical damages to the listed components above was reported by KM as \$497,880, which exceeds \$50,000.

KM is also required to report an event that is significant in the judgement of the operator. KM determined the event significant when it reported the event to FERC in its January to April 2018 and June 2018 Semi-Annual Operating reports.

2. § 191.25 Filing safety-related condition reports.

- (a) **Each report of a safety-related condition under § 191.23(a) must be filed (received by OPS within five working days, not including Saturday, Sunday, or Federal Holidays) after the day a representative of the operator first determines that the condition exists, but not later than 10 working days after the day a representative of the operator discovers the condition. Separate conditions may be described in a single report if they are closely related. Reports may be transmitted by electronic mail to InformationResourcesManager@dot.gov or by facsimile at (202) 366-7128.**

KM failed to file a safety-related condition report as soon as the condition was discovered, but not later than 10 working days after discovery, in violation of 49 C.F.R. § 195.25. KM filed the safety-related condition report on September 26, 2019, which is 288 working days after discovery.

49 C.F.R. § 191.23(a)(6) states, in relevant part, that each operator shall report a safety-related condition involving facilities in service with “[a]ny malfunction or operating error that causes the pressure of a . . . LNG facility that contains or processes LNG to rise above its . . . working pressure . . . plus the margin (build-up) allowed for operation of pressure limiting or control devices.” For plastic deformation to occur, the pipe must experience an internal pressure that exceeds the yield stress of the pipe material. The fact that plastic deformation occurred indicates that the LNG facility experienced an internal pressure above its designed working pressure plus the allowable build-up for operation of pressure limiting or control devices.

Despite concluding that a ¾-inch vent valve was inadvertently left open, creating a combustible mixture that resulted in a detonation and over pressure event in the pipe between D-4 and HV-21061, KM did not file a safety related condition report until September 26, 2019, in violation of 49 C.F.R. § 195.25.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violation occurring on or after

November 2, 2015 and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022. 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. Also, for each violation involving LNG facilities, and additional penalty of not more than \$79,875 occurring on or after July 31, 2019 may be imposed. For each violation involving LNG facilities, an additional penalty of not more than \$77,910 occurring on or after November 27, 2018 and before July 31, 2019 may be imposed. For each violation involving LNG facilities occurring on or after November 2, 2018 and before November 27, 2018, an additional penalty of not more than \$76,352 may be imposed. For each violation involving LNG facilities occurring prior to November 2, 2015, an additional penalty of not more than \$75,000 may be imposed. The Compliance Officer has reviewed the circumstances and supporting documentation involved for the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of **\$55,200** as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$36,200
2	\$19,000

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 you 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 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 2-2019-3001** 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