

JUNE 10, 2013

Mr. Terry W. Carter, CEO
PostRock Energy Corporation
210 Park Ave #2750
Oklahoma City, Oklahoma 73102

Mr. Gary Navarro, President
MV Purchasing, LLC
8301 East 21st Street, Suite 370
Wichita, Kansas 67206

Re: CPF No. 3-2011-1014

Gentlemen:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$65,000 against PostRock Energy Corporation, and specifies actions that need to be taken by MV Purchasing, LLC, the new owner of PostRock's facilities, to comply with the pipeline safety regulations. When the civil penalty has been paid and the terms of the compliance order completed, as determined by the Director, Central 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. David Barrett, Central Region Director, OPS
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS

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)	
)	
PostRock Energy Corporation,)	CPF No. 3-2011-1014
f/d/b/a PostRock KPC Pipeline, LLC,)	
)	
Respondent,)	
)	
and)	
)	
MV Purchasing, LLC.)	

FINAL ORDER

On October 18-22, 25-28, and November 2-5, 2010, 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 PostRock KPC Pipeline, LLC, a subsidiary of PostRock Energy Corporation (PostRock or Respondent), in Olathe, Kansas. As of the date of the OPS inspection, PostRock operated a 1,120-mile interstate pipeline transporting natural gas from northern Oklahoma and western Kansas to Wichita and Kansas City. In late 2012, the pipeline was sold and is now operated by MV Purchasing, LLC, a privately owned energy logistics company offering various energy services to oil and gas producers and petroleum refiners throughout the United States.¹

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated August 23, 2011, a Notice of Probable Violation and Proposed Compliance Order (Notice), which also included a warning pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that PostRock had committed various violations of 49 C.F.R. Part 192, assessing a civil penalty of \$65,000, and ordering Respondent to take certain measures to correct the alleged violations. The warning item required no further action, but warned the operator to correct the probable violation or face possible enforcement action.

PostRock responded to the Notice by letter dated December 1, 2011 (Response). Respondent did

¹ MV Purchasing, LLC, by letter dated November 12, 2010, informed PHMSA that it had purchased PostRock in October 2012. See <http://www.pstr.com/> and <http://www.mvpurchasing.com/news//view/4> (last accessed May 16, 2013).

not contest the allegations of violation but provided an explanation of its actions and requested that the proposed civil penalty be reduced and the proposed compliance order be modified. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

In its Response, PostRock did not contest the allegations in the Notice that it violated 49 C.F.R. Part 192, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.465(d), which states:

§ 192.465 External corrosion control: Monitoring.

(a) Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of § 192.463...

(d) Each operator shall take prompt remedial action to correct any deficiencies indicated by the monitoring.

The Notice alleged that Respondent violated 49 C.F.R. § 192.465(d) by failing to take prompt remedial action to correct deficiencies indicated by annual corrosion control monitoring. Specifically, the Notice alleged that during its inspection, PHMSA discovered that between calendar years 2006 and 2010 there were 12 test station locations on PostRock's 8-inch P-80 pipeline that were either damaged or exhibited cathodic protection readings not meeting the minimum voltage criteria found in Appendix D to Part 192. Section 192.463 requires that each cathodic protection system required by this subpart must provide a level of cathodic protection that complies with one or more of the applicable criteria contained in Appendix D. The Notice alleged that the deficiencies remained uncorrected on one or more subsequent annual inspections.

Respondent did not contest this allegation of violation but noted that seven of the 12 deficiencies occurred prior to PostRock's acquisition of line P-80 in 2007 and that its corrosion monitoring work was actually performed by another operator having two other pipelines in the same right-of-way. PostRock, however, has a responsibility to correct external corrosion deficiencies if such problems are indicated at any time during its ownership and operation of the pipeline, and that it bears such a responsibility regardless of what company or contractor is actually performing the work on behalf of PostRock. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.465(d) by failing to take prompt remedial action to correct deficiencies indicated by annual corrosion control monitoring.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.481(a), which states:

§ 192.481 Atmospheric corrosion control: Monitoring.

(a) Each operator must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows:

If the pipeline is located:	Then the frequency of inspection is:
Onshore	At least once every 3 calendar years, but with intervals not exceeding 39 months. . . .

The Notice alleged that Respondent violated 49 C.F.R. § 192.481(a) by failing to perform atmospheric corrosion inspections for onshore pipelines exposed to the atmosphere, within the 39-month maximum interval. Specifically, the Notice alleged that PostRock did not perform atmospheric corrosion inspections on 82 valves and 66 pipe spans exposed to the atmosphere within the 39-month maximum interval.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.481(a) by failing to perform atmospheric corrosion inspections for onshore pipelines exposed to the atmosphere within the 39-month maximum interval.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 192.479(a), which states:

§ 192.479 Atmospheric corrosion control: General.

(a) Each operator must clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere, except pipelines under paragraph (c) of this section.

The Notice alleged that Respondent violated 49 C.F.R. § 192.479(a) by failing to clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere, except as otherwise provided under paragraph (c) of § 192.479. Specifically, the Notice alleged that Respondent did not coat exposed pipe at four creek crossings (MP 179 on the P-40 pipeline, MP 190 on the P-30 pipeline, MP 319 on the P-50 pipeline, and MP 104 on the P-20 pipeline) with a suitable material to prevent atmospheric corrosion.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.479(a) by failing to clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere, except as otherwise provided under paragraph (c) of § 192.479.

Item 5: The Notice alleged that Respondent violated 49 C.F.R. § 192.605, which states, in relevant part:

§ 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted. . .

(c) *Abnormal operation.* For transmission lines, the manual required by paragraph (a) of this section must include procedures for the following to provide safety when operating design limits have been exceeded: . . .

(4) Periodically reviewing the response of operator personnel to determine the effectiveness of the procedures controlling abnormal operation and taking corrective action where deficiencies are found.

The Notice alleged that Respondent violated 49 C.F.R. § 192.605(c)(4) by failing to prepare and follow a manual of written procedures for conducting operations and maintenance activities and for emergency response. Specifically, it alleged that PostRock failed to prepare and follow written procedures for periodically reviewing the response of its personnel to determine the effectiveness of its procedures for abnormal operations and taking corrective action where deficiencies were found. Specifically, the Notice alleged that PostRock had instances of unintended activations of emergency compressor shutdowns that PostRock did not regard as abnormal operations as long as the pipeline did not exceed the maximum allowable operating pressure (MAOP).

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.605(c)(4) by failing to prepare and follow a manual of written procedures for conducting operations and maintenance activities and for emergency response.

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 \$65,000 for the violations cited above.

Respondent requested that the proposed penalties for Items 1 and 3 be reduced because all or a portion of the alleged violations occurred prior to its ownership of the P-80 pipeline and because the corrosion monitoring work had been performed by an operator other than PostRock. However, as discussed above, such circumstances do not negate an operator's responsibility to comply with the pipeline safety regulations at all times it actually owns or operates a pipeline or to ensure that all work performed by contractors is done properly and in a timely manner. For these reasons, I see no basis to reduce either penalty.

Item 1: The Notice proposed a civil penalty of \$28,900 for Respondent's violation of 49 C.F.R. § 192.465(d), for failing to take prompt remedial action to correct deficiencies indicated by annual corrosion control monitoring. Respondent did not contest the allegation but requested a penalty reduction. Section 192.465 is intended to minimize the risk of external corrosion that can cause failures and injuries to people and the environment, by requiring operators to take prompt and effective action to address integrity threats. Accordingly, having reviewed the record and considered the assessment criteria, as discussed above, I assess Respondent a civil penalty of \$28,900 for violation of 49 C.F.R. § 192.465(d).

Item 3: The Notice proposed a civil penalty of \$22,700 for Respondent's violation of 49 C.F.R. § 192.481(a), for failing to perform, within the 39-month maximum interval, atmospheric corrosion inspections on each pipeline exposed to the atmosphere. Respondent did not contest the allegation but requested a penalty reduction. Operators are required to inspect their pipelines for atmospheric corrosion to prevent pipe failures that could cause injury to people, property, or the environment. Accordingly, having reviewed the record and considered the assessment criteria, as discussed above, I assess Respondent a civil penalty of \$22,700 for violation of 49 C.F.R. § 192.481(a).

Item 4: The Notice proposed a civil penalty of \$13,400 for Respondent's violation of 49 C.F.R. § 192.479(a), for failing to clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere, unless excepted under paragraph (c) of § 192.479. Respondent did not contest the allegation. Proper cleaning and coating of each pipeline is vital to preventing and controlling corrosion and ensuring safe operation of the pipeline. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$13,400 for violation of 49 C.F.R. § 192.479(a).

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 **\$65,000**.

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 (AMZ-341), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 269039, Oklahoma City, Oklahoma 73125. The Financial Operations Division telephone number is (405) 954-8893.

Failure to pay the \$65,000 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, 3, 4, and 5 in the Notice for violations of 49 C.F.R. §§ 192.465, 192.481, 192.479, and 192.605, respectively. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. The Director has indicated that Respondent has taken the following corrective actions:

1. **Item 1** – The Proposed Compliance Order required that PostRock identify and repair all broken test stations, and remediate known deficiencies in cathodic protection voltage criteria found through its annual corrosion control monitoring program. PostRock provided evidence that it had identified and repaired all broken test stations and remediated all known deficiencies.
2. **Item 4** – A portion of the Proposed Compliance Order required that Respondent assess the integrity of the pipe at the four locations outlined in Item 4, make necessary repairs, clean and coat the pipe at each location, and furnish PHMSA with a report on the completed actions. PostRock provided evidence that it had assessed the integrity of the four locations cited in Notice and made the necessary repairs.
3. **Item 5** – The Proposed Compliance Order required that Respondent establish and maintain a specific record or log, in accordance with its operating procedures to document abnormal operations. PostRock provided evidence that it had established and maintained such a log. This addresses a portion of the proposed compliance terms for Item 5 of the Notice.

Accordingly, I find that compliance has been achieved with respect to Item 1 and portions of Items 4 and 5 of the Notice. Therefore, the compliance terms proposed for these Items are not included in this Order.

As for the remaining compliance terms, MV Purchasing, LLC, is expected to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations. Upon the request of Respondent and pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217: PHMSA requests MV Purchasing, LLC, to take the following actions:

1. With respect to the violations of §§ 192.481(a) and 192.479(a) (**Items 3 and 4**), MV Purchasing, LLC, must establish a plan to identify, inspect, and perform necessary repairs to all creek crossings, spans, and pipe exposed by soil erosion, according to a prioritized schedule. The operator must furnish a copy of the plan to the Director for review and must complete all such work by January 31, 2014.
2. With respect to the violation of § 192.605(c)(4) (**Item 5**), MV Purchasing, LLC, must:
 - i. Make modifications to its Operations and Maintenance procedures so that it is clear that exceeding “operating design limits” applies to all applicable system design parameters, including unintended emergency shutdowns and any other mechanical or electrical parameters associated with § 192.605(c)(1)(i) through (v). The procedures must make clear that exceeding MAOP is not the sole criteria for determining when abnormal operations have occurred.
 - ii. Identify five types of abnormal operations specific to its compressor stations and conduct training and testing for all operations personnel and submit copies of the related records to the Director.
 - iii. Upon the issuance of this Final Order and continuing until the case is closed, MY Purchasing, LLC, must provide semi-annual reports to the Director, describing any significant abnormal operations that have occurred and how they have been resolved.

Failure to comply with this Order may result in administrative assessment of civil penalties not to exceed \$100,000 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.

WARNING ITEM

With respect to Item 2, the Notice alleged a probable violation of 49 C.F.R. Part 192 but did not propose a civil penalty or compliance order for this item. Therefore, this is considered to be warning item. The warning was for:

49 C.F.R. § 192.476(c) (**Item 2**) — Respondent’s alleged failure to evaluate the impact of change on internal corrosion risk to its pipeline upon the proposed reconfiguration of its P-100, P-110, P-30 and P-40 lines.

If OPS finds a violation of this provision in a subsequent inspection, MV Purchasing, LLC, may be subject to future enforcement action.

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