

JULY 8, 2014

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

Re: CPF No. 3-2012-5008

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 \$135,500, and specifies actions that need to be taken by Marathon Pipeline, 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, 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: Ms. Linda Daugherty, Director, Central Region, 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)	
)	
Marathon Pipe Line, LLC,)	CPF No. 3-2012-5008
)	
Respondent.)	
)	

FINAL ORDER

From July 12 through December 3, 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 Marathon Pipe Line, LLC (Marathon or Respondent), in the Ohio area. Marathon and Ohio River Pipe Line, LLC, own a network of pipeline systems, including approximately 962 miles of common-carrier crude oil pipelines and approximately 1,819 miles of common-carrier product pipelines extending across nine states.¹

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated April 26, 2012, 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 had committed various violations of 49 C.F.R. Part 195 and assessing a civil penalty of \$135,500 for 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 1, 2012 (Response). The company contested several of the allegations, offered additional information in response to the Notice, and requested that the proposed civil penalty be reduced. Marathon also proposed a compromise penalty offer of \$30,000. 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 195.402, as follows:

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a), which states:

¹ http://www.marathonpipeline.com/Who_We_Are/Investor_Information/ (last accessed December 6, 2013).

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

(a) *General.* Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a) by failing to follow its own manual of written procedures for designating mainline valves and conducting normal operations and maintenance activities on those valves. Specifically, the Notice alleged that Marathon failed to properly classify certain valves as mainline valves, based on its own definition of a mainline valve set forth in the company's procedure *MPLMNT115, Section 7.1*; therefore, Marathon did not properly designate nine of its mainline valves for inspection twice each calendar year but not to exceed 15 months.

In its Response, Marathon contested this allegation, arguing that a review of the nine valves listed in the Notice would indicate that six were, in fact, not mainline valves and therefore not subject to the twice-yearly inspection requirement. The company asserted that the following valves were properly identified as non-mainline valves: VALV – 02065 PL1 pig trap on the Woodriver-to- Clermont line; VALV – 020566 HWRT valve on the pig trap; valve at the Explorer station on the lateral line valve; the valve on the pig launcher at Martinsville 6751 + 39 MLV; and the valves inside of Marathon's Speedway Station.²

Upon review of the diagrams provided by Marathon of VALV-02065 PLI pig trap on the Woodriver-to-Clermont line, the VALV-020566 HWRT valve on the pig trap, and the valves inside the Speedway Station, it is apparent that those valves were capable of full-volume flow off the mainline and used to isolate mainline sections because they were the last shutoff valves before the pig trap. Most trap isolation and bypass valves are the first line of defense in the event of an emergency. Further, the valve on the pig launcher at Martinsville 6751 + 39 MLV was also capable of full-volume flow off the mainline and used to isolate the mainline valve because it

² Marathon defined "Mainline valve" and Non-mainline valve" in *MPLMNT115* as follows:

"Mainline valves are valves capable of full volume flow of the mainline which: (1) are used to isolate mainline sections or (2) are the first valve off the mainline in a lateral line used to isolate the mainline from other facilities (i.e. pump station, tank farm, low pressure manifold, etc.).

Non-mainline valves are capable of full volume flow of the mainline and are located within a facility that is isolated by the mainline valves that are located within or directly adjacent to the facility (station, junction, etc.). Examples of non-mainline valves include but are not limited to unit suction, unit discharge, bypass, control, manifold, and tank valves."

was the final isolation valve before the lateral valves. I am unable to provide an analysis of the valve at the Explorer station because the diagram provided by the operator in its Response is illegible. Therefore, I am withdrawing this one instance of violation involving the Martinsville pig launcher valve. As for the remaining violations, the evidence supports the allegations of violation set forth in the Notice. Accordingly, after considering all of the evidence, I find that Marathon violated 49 C.F.R. § 195.402(a) by failing to follow its own written procedures for designating mainline valves and conducting normal operations and maintenance activities on those valves.

Item 5: The Notice alleged that Respondent violated 49 C.F.R. § 195.404(a), which states:

§ 195.404 Maps and records.

(a) Each operator shall maintain current maps and records of its pipeline systems that include at least the following information:

(1) Location and identification of the following pipeline facilities:

(i) Breakout tanks;

(ii) Pump stations;

(iii) Scraper and sphere facilities;

(iv) Pipeline valves;

(v) Facilities to which § 195.402(c)(9) applies;

(vi) Rights-of-way; and

(vii) Safety devices to which § 195.428 applies.

The Notice alleged that Respondent violated 49 C.F.R. § 195.404(a) by failing to maintain current maps of its pipeline systems. Specifically, the Notice alleged that Marathon's Geographic Information Systems alignment sheets were developed with the construction inventories and had not been proofed or updated by field personnel since 1999. The Notice alleged that the company's alignment sheets showed a number of errors, including elevations, legends, valve locations, pipe coating, pipe wall thickness and grade.

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. § 195.404(a) by failing to maintain current maps of its pipeline systems.

Item 7: The Notice alleged that Respondent violated 49 C.F.R. § 195.420(b), which states:

§ 195.420 Valve maintenance.

(a) . . .

(b) Each operator shall, at intervals not exceeding 7½ months, but at least twice each calendar year, inspect each mainline valve to determine that it is functioning properly.

The Notice alleged that Respondent violated 49 C.F.R. § 195.420(b) by failing to inspect each mainline valve at intervals not exceeding 7½ months, but at least twice each calendar year. Specifically, the Notice alleged that Marathon inspected VALV – 103404 VDC Philips Junction MLV 15 only once in the 2008, 2009, and 2010 calendar years. In addition, it alleged that

VALV HG17 was inspected only once in 2009 and not inspected at all in 2010.

Respondent did not contest this allegation of violation but requested a reduction of the proposed penalty, which I will address in the Assessment of Penalties section below. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.420(b) by failing to inspect each mainline valve at intervals not exceeding 7½ months, but at least twice each calendar year.

Item 8: The Notice alleged that Respondent violated 49 C.F.R. § 195.428(a), which states:

§ 195.428 Overpressure safety devices and overfill protection systems.

(a) Except as provided in paragraph (b) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not to exceed 7½ months, but at least twice each calendar year, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.

The Notice alleged that Respondent violated 49 C.F.R. § 195.428(a) by failing to inspect and test each relief valve, at intervals not exceeding 15 months, to determine that it was functioning properly, was in good mechanical condition, and was adequate from the standpoint of capacity and reliability of operation for the service in which it was used. Specifically, the Notice alleged that Marathon did not inspect all thermal relief valves at the Harrison, East Spartan, Robinson, and Louisville stations. Additionally, inspections at Patoka, Martinsville, Clermont, and Findlay RV6 exceeded the 15-month maximum interval by five days, from April 8, 2008, to July 13, 2009.

In its Response, Marathon admitted it had failed to inspect all of the valves at the Louisville Station and had improperly numbered the valves at Wood River. Respondent also claimed that it did not operate the Harrison location and provided evidence that it had timely inspected the valves at Findlay RV6. Marathon argued that it had not been provided with sufficient information to determine the validity of the remaining claims for the East Sparta, Robinson, Patoka, Martinsville, and Clermont locations.

Based on the evidence that the Respondent has provided, it appears that Marathon did timely inspect the valves at Findlay RV6 and that it did not own the Harrison location. As for its argument about insufficient information as to the remaining claims, as noted in the Violation Report, the devices were not uniquely numbered by Marathon; therefore, the Notice could not identify which specific valves were not inspected. Moreover, exit interviews with Marathon personnel indicated that the company did not consider certain safety valves to be jurisdictional to the U.S. Department of Transportation and therefore were not inspected. In order to maintain compliance with the regulations, an operator must not only perform the required inspections but be able to present evidence during the inspection that it has complied.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.428(a) by failing to inspect and test each relief valve at intervals not exceeding 15 months to determine that it was functioning properly, was in good mechanical condition, and was adequate from the standpoint of capacity and reliability of operation for the service in which it was used.

Item 9: The Notice alleged that Respondent violated 49 C.F.R. § 195.567(a), which states:

§ 195.567 Which pipelines must have test leads and what must I do to install and maintain the leads?

(a) *General.* Except for offshore pipelines, each buried or submerged pipeline or segment of pipeline under cathodic protection required by this subpart must have electrical test leads for external corrosion control. However, this requirement does not apply until December 27, 2004 to pipelines or pipeline segments on which test leads were not required by regulations in effect before January 28, 2002.

The Notice alleged that Respondent violated 49 C.F.R. § 195.567(a) by failing to have electrical test leads for external corrosion control on each pipeline segment under cathodic protection. Specifically, it alleged that Marathon systematically incorporated a significant number of operational bonds for connecting multiple segments of pipeline together to protect the system as a whole, but failed to install test leads for each segment.

Respondent did not contest this allegation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.567(a) by failing to have electrical test leads for external corrosion control on each pipeline segment under cathodic protection.

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

ASSESSMENT OF PENALTIES

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 \$135,500 for the violations cited above.

Item 2: The Notice proposed a civil penalty of \$63,200 for Respondent's violation of

49 C.F.R. § 195.402(a), for failing to follow its own written procedures for designating mainline valves and conducting normal operations and maintenance activities on those valves. As discussed above, I found that the valves in question did, in fact, meet Marathon's own definition of mainline valves. Respondent requested a penalty reduction based upon its good-faith belief that some of the cited valves were not mainline valves. However, as discussed above, Marathon failed to follow its own procedures in how such valves should be classified. The timely inspection for these valves is critical to the safe operation of the pipeline system since they provide the first line of defense in the event of an emergency. I am not convinced that a misidentification of the valves based on its own procedures entitles Marathon to a penalty reduction based on a good-faith mistake in its interpretation of a regulatory requirement.

As for the single instance discussed above, where one charge was withdrawn based on the illegibility of the document provided by Marathon, I have reviewed the penalty assessment criteria and calculation for this Item and find that withdrawal of this single charge would not affect the penalty as originally proposed. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$63,200 for violation of 49 C.F.R. § 195.402(a).

Item 5: The Notice proposed a civil penalty of \$26,000 for Respondent's violation of 49 C.F.R. § 195.404(a), for failing to maintain current maps of its pipeline systems. Marathon neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$26,000 for violation of 49 C.F.R. § 195.404(a).

Item 7: The Notice proposed a civil penalty of \$46,300 for Respondent's violation of 49 C.F.R. § 195.420(b), for failing to inspect each mainline valve twice each calendar year at intervals not exceeding 7½ months. Marathon did not contest the allegation of violation but sought a lower penalty of \$12,000 for two reasons. First, the company claimed to have now inspected all of the mainline valves in question and that "they have successfully passed inspection on a semi-annual basis...." Second, Marathon asserted that the valves "are not located in remote or isolated locations" and "have not and do not present significant safety risks."³

Under PHMSA's standard penalty assessment criteria, I see no reason to reduce the proposed penalty. Respondent's failure to properly inspect these mainline valves placed the safety of its pipeline at risk, as well as that of the public, property, and the environment in the vicinity of the pipeline. Fully functioning valves are extremely important to mitigate damage during an emergency, as mainline valves can be closed to isolate part of a pipeline system and limit the volume of product released in the event of a spill.

Neither does the fact that the valves were successfully tested *after* the PHMSA inspection and found to be in good working order support a reduction. In applying the penalty assessment criteria, PHMSA does not make deductions for subsequent inspections or tests that turn out to be satisfactory or to show compliance. Such an approach would undermine any incentive for operators to conduct routine inspections properly and that play an integral part in normal

³ Response at 4.

operations and maintenance. Although, PHMSA appreciates the efforts by Marathon after the Notice was issued, the proposed penalty reflects the company's failure to conduct required inspections prior to the PHMSA inspection. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$46,300 for violation of 49 C.F.R. § 195.420(b).

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 **\$135,500**.

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 \$135,500 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 2, 5, 8 and 9 in the Notice for violations of 49 C.F.R. §§ 195.402(a), 195.404(a), 195.428(a) and 195.567(a), respectively. 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 § 195.402(a) (**Item 2**), Respondent must apply its definitions of "mainline" and "non-mainline valves" to all valves on its pipeline system to determine which additional valves require inspection. Each previously unidentified valve that meets the definition of "mainline valve" shall be added to the Marathon valve inspection schedule and inspected.
2. With respect to the violation of § 195.404(a) (**Item 5**), Respondent must review all alignment sheets and its GIS system for incorrect or omitted information. Upon completion, each sheet shall be reviewed for accuracy by the subject matter expert assigned to the field areas that each sheet represents.

3. With respect to the violation of § 195.428(a) (**Item 8**), Respondent must review its facilities, identify all thermal relief devices, and uniquely label them. Marathon shall then inspect each relief valve that is not currently within its inspection cycle to determine whether it is functioning properly.
4. With respect to the violation of § 195.567(a) (**Item 9**), pertaining to having test leads on each segment of pipeline, Marathon must identify and document all locations of operational bonds. This identification will reveal the location of each segment of pipeline. Marathon must then ensure that each segment has a corresponding test lead. For segments identified as lacking test leads, the company shall install proper test leads.
5. Marathon shall perform the compliance requirements above within 180 days of receipt of the Final Order. The Director may extend the deadline based on a written request justifying an extension for good cause.

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.

WARNING ITEMS

With respect to Items 1, 3, 4, 6, and 10, 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. § 195.56 (**Item 1**) — Respondent's alleged failure to report a safety-related condition within five working days after the day a representative of the operator first determines that the condition exists, but not later than 10 working days after discovery;

49 C.F.R. § 195.402(a) (**Item 3**) — Respondent's alleged failure to review its procedural manual for operations, maintenance, and emergencies, at intervals not exceeding 15 months;

49 C.F.R. § 195.56(a)(12) (**Item 4**) — Respondent's alleged failure to establish and maintain liaison with fire, police, and other appropriate public officials to learn the responsibility and resources of each government organization that may respond to a hazardous liquid or pipeline emergency;

49 C.F.R. § 195.412(a) (**Item 6**) — Respondent’s alleged failure to inspect each pipeline right-of-way at intervals not exceeding three weeks, but at least 26 times each calendar year; and

49 C.F.R. § 195.583(b) (**Item 10**) — Respondent’s alleged failure to monitor atmospheric corrosion control by giving particular attention to pipe at soil-to-air interfaces and under disbanded coatings.

Marathon presented information in its Response 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. § 190.215, 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