

JUNE 17, 2013

Mr. Clark Smith
President & Chief Executive Officer
Buckeye Partners, LP
One Greenway Plaza
Suite 600
Houston, TX 77046

Re: CPF No. 3-2013-5001

Dear Mr. Smith:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$47,800. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated February 5, 2013. This enforcement action is now 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. Thomas S. (Scott) Collier, Director, Performance Assurance, Buckeye Partners, LP,
Five TEK Park, 9999 Hamilton Boulevard, Breinigsville, PA 18031
Mr. Dave Barrett, Central Region Director, OPS
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS

CERTIFIED MAIL - RETURN RECEIPT REQUESTED [INSERT RECEIPT NO.]

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

)	
In the Matter of)	
)	
Buckeye Partners, LP,)	CPF No. 3-2013-5001
)	
Respondent.)	
)	

FINAL ORDER

On April 12-15 and June 13-17, 2011¹, 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 Buckeye LP (Buckeye or Respondent) in Pennsylvania, Illinois, and Indiana. Buckeye’s 560-mile Norco Pipeline transports petroleum products in 6, 8, and 12-inch diameter pipelines across Illinois, Indiana, and Ohio.

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated January 8, 2013, a Notice of Probable Violation and Proposed Civil Penalty (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 Buckeye violated 49 C.F.R. § 195.420 and proposed assessing a civil penalty of \$47,800 for the alleged violation. The warning item required no further action, but warned the operator to correct the probable violation.

Buckeye responded to the Notice by letter dated January 4, 2013 (Response). The company did not contest the allegation of violation and paid the proposed civil penalty of \$47,800, as provided in 49 C.F.R. § 190.227. Payment of the penalty serves to close the case with prejudice to Respondent.

FINDING OF VIOLATION

In its Response, Buckeye did not contest the allegation in the Notice that it violated 49 C.F.R. Part 195, as follows:

¹ The Notice incorrectly states that an inspection occurred during the period May 13-17, 2011. The correct inspection period is June 13-17, 2011, which is listed on the Violation Report. Pipeline Safety Violation Report (Violation Report) (April 17, 2012) (on file with PHMSA), at 1.

Item 1: 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 7 ½ 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 to determine that it is functioning properly, at an interval not exceeding 7 ½ months, but at least twice each calendar year. Specifically, the Notice alleged that Buckeye failed to inspect three mainline valves near the East Chicago Junction within the 7 ½ month interval required by the regulation.

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. § 195.420(b) by failing to inspect each mainline valve, at an interval not exceeding 7 ½ months and at least twice each calendar year.

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 \$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 \$47,800 for the violation cited above.

Item 1: The Notice proposed a civil penalty of \$47,800 for Respondent's violation of 49 C.F.R. § 195.420(b), for failing to inspect each mainline valve to determine that it is functioning properly, at an interval not exceeding 7 ½ months, but at least twice each calendar year. Buckeye neither contested the allegation nor presented any evidence or argument justifying elimination of the proposed penalty. As this item constitutes a repeat violation² of the

² Notice of Probable Violation and Proposed Civil Penalty (Notice), at 2. The items repeated were cited in separate enforcement actions, CPF 3-2008-5004 (Item 2) and CPF 1-2011-5002 (Item 2).

same regulatory requirement in two additional enforcement actions, it is appropriate that the penalty assessment in this case reflect the repeated nature of this kind of violation on Respondent's pipelines. By regularly assessing mainline valves, operators can reduce the risks of malfunction and prevent accidents. While Buckeye was aware of the regulatory requirement, the Respondent exceeded the inspection interval on three separate occasions. When the history of repeat violations is considered along with the violation in this enforcement action, the proposed civil penalty becomes appropriate in this context. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$ 47,800 for violation of 49 C.F.R. § 195.420(b).

In summary, having reviewed the record and considered the assessment criteria for the Item cited above, I assess Respondent a total civil penalty of **\$47,800**.

WARNING ITEM

With respect to Item 2, the Notice alleged a probable violation of Part 195 but did not propose a civil penalty or compliance order for this item. Therefore, this is considered to be a warning item. The warning was for:

49 C.F.R. § 195.569 (**Item 2**) — Respondent's alleged failure to examine an exposed portion of pipeline for evidence of external corrosion if the pipe is bare or the coating is deteriorated.

Buckeye presented information in its Response showing that it has taken certain actions to address the cited item. If OPS finds a violation of this provision in a subsequent inspection, Respondent may be subject to future enforcement action.

The 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