

APRIL 19, 2013

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

Re: CPF No. 3-2013-5002

Dear Mr. Smith:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$26,300. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated February 11, 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 (Scott) Collier, Director, Performance Assurance, Buckeye Partners, LP,
Five TEK Park, 9999 Hamilton Boulevard, Breinigsville, PA 18031
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)	
)	
Buckeye Partners, LP,)	CPF No. 3-2013-5002
)	
Respondent.)	
)	

FINAL ORDER

On April 12-15 and May 23-27, 2011, 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 operations and maintenance records of West Shore Pipe Line Company in Breinigsville, Pennsylvania and conducted a field inspection in Illinois and Wisconsin. Buckeye Partners, LP (Buckeye or Respondent), operates the West Shore Pipe Line system, which originates in the Chicago, Illinois area and extends north to Green Bay, Wisconsin, and northwest to Madison, Wisconsin.¹

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). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Buckeye had violated 49 C.F.R. §§ 195.404 and 195.412 and proposed assessing a civil penalty of \$26,300 for the alleged violations.

Buckeye responded to the Notice by letter dated February 11, 2013 (Response). The company did not contest the allegations of violation and paid the proposed civil penalty of \$26,300, as provided in 49 C.F.R. § 190.227. Payment of the penalty serves to close the case with prejudice to Respondent.

FINDINGS OF VIOLATION

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

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.404(c)(3), which states:

¹ See <http://www.westshorepipeline.com/> (last accessed April 11, 2013).

§ 195.404 Maps and records.

- (a) ...
- (c) Each operator shall maintain the following records for the periods specified:
 - (1) ...
 - (3) A record of each inspection and test required by this subpart shall be maintained for at least 2 years or until the next inspection or test is performed, whichever is longer.

The Notice alleged that Respondent violated 49 C.F.R. § 195.404(c)(3) by failing to maintain a record of each inspection and test performed during 2009-2010 of its West Shore Pipeline. Specifically, the Notice alleged that Buckeye did not document whether 10 discharge pressure switches and 14 discharge pressure transmitters that it utilized as overpressure safety devices were functioning properly in accordance with § 195.428(a).²

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(c)(3) by failing to maintain a record of each inspection and test performed during 2009-2010 of its West Shore Pipeline.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.412(b), which states:

§ 195.412 Inspection of rights-of-way and crossings under navigable waters.

- (a) ...
- (b) Except for offshore pipelines, each operator shall, at intervals not exceeding 5 years, inspect each crossing under a navigable waterway to determine the condition of the crossing.

The Notice alleged that Respondent violated 49 C.F.R. § 195.412(b) by failing to inspect one crossing under a navigable waterway to determine its condition, within an interval not exceeding five years from the last inspection. Specifically, the Notice alleged that Buckeye inspected the underwater navigable waterway crossing for the 1/16-inch Fox River Lateral pipeline at Green Bay, Wisconsin, on April 19, 2005, but not again until November 23, 2010. Buckeye thus exceeded the five-year interval by seven months and four days.

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. § 195.412(b) by failing to inspect one crossing under a navigable waterway to determine its condition, within an interval not exceeding five years from the last inspection.

² Section 195.428(a) states:

§ 195.428 Overpressure safety devices and overflow protection systems:

- (a) Each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, inspect and test each pressure limiting device, relief device, 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.

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 \$26,300 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$16,300 for Respondent's violation of 49 C.F.R. § 195.404(c)(3), for failing to adequately document inspections during 2009-2010 of its West Shore Pipeline. Buckeye neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. The proper functioning of overpressure safety devices is necessary to prevent a pipeline failure due to overpressure, which could have serious consequences for people and the environment. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$16,300 for violation of 49 C.F.R. § 195.404(c)(3).

Item 2: The Notice proposed a civil penalty of \$10,000 for Respondent's violation of 49 C.F.R. § 195.412(b), for failing to inspect one crossing under a navigable waterway to determine its condition, within an interval not exceeding five years from the last inspection. Buckeye neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Maintaining a system of inspection ensures reasonable promptness in the detection of all surface conditions on and adjacent to the pipeline crossings. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$10,000 for violation of 49 C.F.R. § 195.412(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 **\$26,300**.

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