

**September 25, 2015**

Mr. Donald W. Porter  
President  
BP Pipelines (North America) Inc.  
150 West Warrenville Road  
Naperville, IL 60563

**Re: CPF No. 3-2013-5004**

Dear Mr. Porter:

Enclosed please find the Final Order issued in the above-referenced case. It withdraws certain allegations of violation, makes other findings of violation, assesses a civil penalty of \$100,000, and specifies actions that need to be taken by BP Pipelines (North America) Inc., to comply with the pipeline safety regulations. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated December 16, 2014.

When the terms of the compliance order have been 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. Allan Beshore, Director, Central Region, OPS  
Mr. David O. Barnes, Manager, DOT Compliance, BP Pipelines (North America) Inc.

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

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

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<b>In the Matter of</b>	)	
	)	
<b>BP Pipelines (North America) Inc.,</b>	)	<b>CPF No. 3-2013-5004</b>
	)	
<b>Respondent.</b>	)	
	)	

**FINAL ORDER**

Between August 2 and December 10, 2010, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), the Minnesota Office of Pipeline Safety, and the Washington Utilities and Transportation Commission inspected BP Pipelines (North America) Inc.'s (BP or Respondent) facilities and records for Operations and Maintenance, Operator Qualification, Public Awareness, Damage Prevention, and Integrity Management in BP's offices and field locations in Illinois, Iowa, Missouri, New Jersey, Ohio, Oklahoma, Oregon, Texas, and Washington. The BP systems included in the inspection were Olympic Pipeline, Amoco Pipeline, BP USFO/Logistics, Main Pass Oil Gathering, BP Oil Pipeline, Tri-States NGL Pipeline, and Black Lake Pipe Line. BP operates numerous large hazardous liquid pipeline systems in the U.S., totaling approximately 2,983 miles of pipe.<sup>1</sup>

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated February 15, 2013, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice), which also included warning items pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that BP had committed various violations of 49 C.F.R. Part 195 and assessing a civil penalty of \$100,000 for one of the alleged violations. The Notice also ordering Respondent to take certain measures to correct four of the alleged violations. The warning items required no further action, but warned the operator to correct the probable violations or face future possible enforcement action.

BP responded to the Notice by letter dated March 22, 2013 (Response), as supplemented by letter dated April 2, 2014 (Supplemental Response). The company did not contest one of the allegations of violation and paid the proposed civil penalty of \$100,000, as provided in 49 C.F.R. § 190.227. Payment of the penalty serves to close that item with prejudice to Respondent. BP did contest the allegations in Notice Items 4 and 5, offered additional information in response to the Notice, requested that the proposed compliance order be modified, and reserved its right to a

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<sup>1</sup> Pipeline Safety Violation Report, (Feb. 15, 2013) (on file with PHMSA), at 1.

hearing. By letter dated April 7, 2014, Respondent withdrew its request for a hearing and thereby authorized the entry of this Final Order without further notice.

### **FINDINGS OF VIOLATION**

The Notice alleged that Respondent violated 49 C.F.R. Part 195, as follows:

**Item 3:** The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(1), which states:

**§ 195.452 Pipeline integrity management in high consequence areas.<sup>2</sup>**

(a) ...

(h) *What actions must an operator take to address integrity issues?—*

(1) *General requirements.* An operator must take prompt action to address all anomalous conditions the operator discovers through the integrity assessment or information analysis. In addressing all conditions, an operator must evaluate all anomalous conditions and remediate those that could reduce a pipeline's integrity. An operator must be able to demonstrate that the remediation of the condition will ensure the condition is unlikely to pose a threat to the long-term integrity of the pipeline. An operator must comply with §195.422 when making a repair.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(1) by failing to take prompt action to address all anomalous conditions the company had discovered through information analysis. Specifically, the Notice alleged that BP did not address deficiencies identified in a 2005 close interval survey (CIS) conducted on the Hardin Station to Mt. Belvieu, Texas segment of the Black Lake Pipeline until 2010.

In its Response, BP stated that it had revised its CIS procedures to clarify that areas requiring mitigation were properly identified and actions put in place to correct identified deficiencies within one year.<sup>3</sup> BP further explained that in certain circumstances, mitigation activities could extend beyond one year if activities such as extensive re-coating, rectifier installation, or pipe replacement were involved. Finally, BP expressed the view that the proposed compliance order was broad enough to arguably include not just BP's CIS procedures but all of BP's procedures, and requested that the order be narrowed.

Under the cited regulation, BP was required to take prompt action and Respondent did not dispute that action was not taken until approximately four years after the CIS survey in question. We recognize BP ultimately took action, including amending its procedures to correct the alleged violation. Such action, however, does not negate the period of non-compliance.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R.

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<sup>2</sup> For purposes of 49 C.F.R. § 452, the term "High Consequence Area" or "HCA" covers commercially navigable waterways, high population areas, other populated areas, and unusually sensitive areas. See 49 C.F.R. § 195.450.

<sup>3</sup> Supplemental Response, Attachment 1 at 1.

§ 195.452(h)(1) by failing to take prompt action to address all anomalous conditions it discovered through information analysis. The scope of the proposed compliance order will be addressed in the Compliance Order section below.

**Item 4:** The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(4)(iv), which states:

**§ 195.452 Pipeline integrity management in high consequence areas.**

(a) ...

(h) *What actions must an operator take to address integrity issues?*

(1) ...

(4) *Special requirements for scheduling remediation -*

(i) ...

(iv) *Other conditions.* In addition to the conditions listed in paragraphs (h)(4)(i) through (iii) of this section, an operator must evaluate any condition identified by an integrity assessment or information analysis that could impair the integrity of the pipeline, and as appropriate, schedule the condition for remediation. Appendix C of this part contains guidance concerning other conditions that an operator should evaluate.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(4)(iv) by failing to evaluate a condition identified by an integrity assessment and that could impair the integrity of a pipeline. Specifically, the Notice alleged that BP failed to evaluate an anomaly at a specified location that, based on 2010 in-line inspection (ILI) results, appeared to be of sufficient magnitude to impair the integrity of the pipeline.

In its Response, BP provided information showing that it did perform a field inspection and evaluation of the specified anomaly in a timely manner following receipt of the tool vendor's report. Specifically, the field inspection was performed in November 2010 and determined that the majority of the feature involved depths of less than 2%, equating to 1/100 of an inch in 0.661" wall pipe. Moreover, no part of the feature exceeded the 9% depth specification tolerance for newly manufactured pipe.<sup>4</sup> Based on the severity of this feature, as reported by the ILI vendor, I do not believe that the time period between BP's receipt of the vendor's report and the field inspection was inappropriate.

Accordingly, after considering all of the evidence, I find that BP was not out of compliance with 49 C.F.R. § 195.452(h)(4)(iv) and therefore order that Item 4 and the associated provision in the Proposed Compliance Order be withdrawn.

**Item 5:** The Notice alleged that Respondent violated 49 C.F.R. § 195.452(j)(1), which states:

**§ 195.452 Pipeline integrity management in high consequence areas.**

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<sup>4</sup> Response, Attachment 1 at 4.

(a) ...

(j) *What is a continual process of evaluation and assessment to maintain a pipeline's integrity?*— (1) General. After completing the baseline integrity assessment, an operator must continue to assess the line pipe at specified intervals and periodically evaluate the integrity of each pipeline segment that could affect a high consequence area.

(2) *Evaluation.* An operator must conduct a periodic evaluation as frequently as needed to assure pipeline integrity. An operator must base the frequency of evaluation on risk factors specific to its pipeline, including the factors specified in paragraph (e) of this section. The evaluation must consider the results of the baseline and periodic integrity assessments, information analysis (paragraph (g) of this section), and decisions about remediation, and preventive and mitigative actions (paragraphs (h) and (i) of this section).

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(j)(1) by failing to continue assessing each pipe segment at specified intervals and periodically evaluating the integrity of each segment that could affect a High Consequence Area. Specifically, Sub-items (a)-(d) in Item 5 alleged that BP violated the regulation by failing to: (a) have and implement a process for continual assessments that included all relevant factors, including, among other things, previous integrity assessment results, leak history, repair history, cathodic protection history, product transported, and operating stress level; (b) address low frequency electric resistance welded (ERW) pipe and lap welded pipe susceptible to seam failures and ensure that these types of pipe be reassessed within five years;<sup>5</sup> (c) address interactive threats; and (d) properly establish intervals between assessments.

In its Response, BP did not contest Sub-items (a), (c), or (d) and provided information concerning the actions it had taken to correct these items. With respect to Sub-item (b), BP explained that its integrity management program did fully address the reassessment of low frequency ERW and lap welded pipe. Specifically, BP demonstrated that its procedures were consistent with PHMSA's accepted technical report, *OPS TT05 – Low Frequency ERW and Lap Welded Longitudinal Seam Evaluation Report*, and provided for appropriate reassessment intervals for these types of pipe and appropriate notification for any intervals exceeding five years.<sup>6</sup>

Accordingly, after considering all of the evidence, I find that PHMSA has not provided sufficient evidence to conclude that BP had reassessed pipe at intervals longer than the five-year period specified in the regulation; I therefore order that Sub-item 5(b) and the associated provision in the Proposed Compliance Order be withdrawn. With respect to Sub-items (a), (c), and (d), I find that Respondent violated 49 C.F.R. § 195.452(j)(1) by failing to have and implement a process for continual assessments that included all relevant factors, addressed interactive threats, and properly established intervals between assessments.

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<sup>5</sup> Under 49 C.F.R. § 195.452(j), operators must be able to justify and document reassessment intervals longer than five years.

<sup>6</sup> Response, Attachment 1 at 5

**Item 6:** The Notice alleged that Respondent violated 49 C.F.R. § 195.452(j)(2), as quoted above, by failing to conduct periodic evaluations to assure pipeline integrity on all of its pipelines and facilities. Specifically, the Notice alleged that BP had not undertaken periodic evaluations on 47 of 109 covered facilities.

In its Response, BP did not contest the allegation. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(j)(2) by failing to conduct periodic evaluations to assure pipeline integrity on all of its pipelines and facilities.

The findings of violation for Items 3, 5, and 6 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 \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.<sup>7</sup> 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; 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 \$100,000 for the violation cited in Item 6 above.

**Item 6:** The Notice proposed a civil penalty of \$100,000 for Respondent's violation of 49 C.F.R. § 195.452(j)(2), for failing to conduct periodic evaluations to assure pipeline integrity on all of its pipelines and facilities. As noted above, BP paid the proposed penalty, which serves to close the case with prejudice as to this Item. I further find that the penalty amount proposed in the notice is warranted, considering the nature, circumstances, and gravity of the violation and Respondent's culpability for the violation. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$100,000 for violation of 49 C.F.R. § 195.452(j)(2).

In summary, having reviewed the record and considered the assessment criteria for the Item cited above, I assess Respondent a total civil penalty of **\$100,000**, which amount has already been paid by Respondent.

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<sup>7</sup> The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Pub. L. No. 112-90, § 2(a)(1), 125 Stat. 1904, January 3, 2012, increased the civil penalty liability for violating a pipeline safety standard to \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.

### **COMPLIANCE ORDER**

The Notice proposed a compliance order with respect to Items 3, 4, 5 and 6 in the Notice for violations of 49 C.F.R. §§ 195.452(h)(1), 195.452(h)(4)(iv), 195.452(j)(1), and 195.452(j)(2), 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. Item 4 and Sub-item 5(b) have been withdrawn, as have the proposed compliance terms associated with them. With respect to Items 3, 5(a), (c), (d), and 6, 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 § 195.452(h)(1) (**Item 3**), within 30 days of receipt of this Order, Respondent must review and revise all procedures related to Close Interval Survey findings that allow timing of actions addressing anomalous conditions to extend longer than one year, unless a detailed written justification is provided documenting the rationale for a longer interval. BP must submit a report demonstrating completion of this item to the Director in accordance with Item 7 of this Compliance Order.
2. With respect to the violation of § 195.452(j)(1) (**Item 5(a)**), within 60 days following receipt of this Order, Respondent must complete the full development of its "Continual Evaluation and Assessment Procedure," including all elements set forth in paragraph (e) which include but are not limited to previous integrity assessment results, leak history, repair history, cathodic protection history, product transported, operating stress level, existing or projected activities in the area, local environmental factors, geo-technical hazards, etc. BP must submit a report demonstrating completion of this item to the Director in accordance with Item 7 of this Compliance Order.
3. With respect to the violation of § 195.452(j)(1) (**Item 5(c)**), within 60 days following receipt of this Order, Respondent must revise its written procedures for assessing and mitigating against interactive threats, including seam threats that are also susceptible to external corrosion. BP must submit a report demonstrating completion of this item to the Director in accordance with Item 7 of this Compliance Order.
4. With respect to the violation of § 195.452(j)(1) (**Item 5(d)**), within 60 days following receipt of this Order, Respondent must revise its written procedures on reassessment methods and intervals to address the potential need to conduct assessments at intervals less than three years where warranted by the analysis. BP must submit a report demonstrating completion of this item to the Director in accordance with Item 7 of this Compliance Order.
5. With respect to the violation of § 195.452(j)(1) (**Item 5**), within 365 days

following receipt of this Order, Respondent must develop and implement a plan to review the pipelines in its integrity management program after its procedures have been revised per Items 1-4 of this Compliance Order. The plan must provide for the re-evaluation of the integrity of each covered pipeline segment and the modification of assessment methods and schedules where appropriate. BP must submit a report demonstrating completion of this item to the Director in accordance with Item 7 of this Compliance Order.

6. With respect to the violation of § 195.452(j)(2) (**Item 6**), within 60 days following receipt of this Order, Respondent must: (1) revise its procedures to ensure future facilities are properly evaluated and assessed in accordance with applicable regulatory timelines; and (2) develop and submit a plan, for prior approval of the Director, with a list of all current facilities that includes proposed timelines for conducting all needed assessments and associated actions to achieve compliance. BP must: (1) submit quarterly reports to the Director on the progress of carrying out the plan; and (2) submit a final report demonstrating completion of this item to the Director in accordance with Item 7 of this Compliance Order.

7. Within 30 days following the completion of each item in this Compliance Order, Respondent must submit documentation demonstrating the completion of each item to Allan Beshore, Director, Central Region, Pipeline and Hazardous Materials Safety Administration, 901 Locust Street, Kansas City, MO 64106 for review and acceptance.

8. It is requested, but not required, that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. Costs should be reported in two categories: (1) total cost associated with preparation/revision of plans, procedures, studies, and analyses; and (2) total cost associated with replacements, additions, and other physical changes to pipeline facilities and infrastructure.

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 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 and 2, 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 warning(s) were for:

49 C.F.R. § 195.420(b) (**Item 1**) — Respondent’s alleged failure to inspect certain mainline valves within the required interval to determine that they are functioning properly; and

49 C.F.R. § 195.432(b) (**Item 2**) — Respondent’s alleged failure to conduct monthly inspections of the physical integrity of certain breakout tanks in accordance with API Standard 653.

BP 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. § 190.243, Respondent has a right to submit a petition for reconsideration of this Final Order. Should Respondent elect to do so, the petition must be sent to: Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2<sup>nd</sup> 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. § 190.243. Unless the Associate Administrator, upon request, grants a stay, the terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

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Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

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Date Issued