

October 15, 2015

Mr. Mark A. Petersen
President
Sinclair Transportation Company
550 E. South Temple
P.O. Box 30825
Salt Lake City, UT 84130

Re: CPF No. 3-2015-5006

Dear Mr. Petersen:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$34,200, and specifies actions that need to be taken by Sinclair Transportation Company to comply with the pipeline safety regulations. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer dated June 30, 2015. 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: Allan C. Beshore, 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, DC 20590**

In the Matter of)	
)	
Sinclair Transportation Company,)	CPF No. 3-2015-5006
)	
Respondent.)	
)	

FINAL ORDER

On November 25-27 and December 2-6, 2013, 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 Sinclair Transportation Company (Sinclair or Respondent) in Carrollton, Missouri. Sinclair operates an 8-inch pipeline transporting refined products approximately 320 miles from Olathe, Kansas, to Montrose, Iowa.¹

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated June 3, 2015, a Notice of Probable Violation, Proposed Civil Penalty, 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 Sinclair had violated 49 C.F.R. § 195.581 and proposed assessing a civil penalty of \$34,200 for the alleged violation. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violation. The warning item required no further action, but warned the operator to correct the probable violation.

FINDING OF VIOLATION

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

¹ Pipeline Safety Violation Report (Violation Report), (July 16, 2014) (on file with PHMSA), at 1.

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.581, which states:

§ 195.581 Which pipelines must I protect against atmospheric corrosion and what coating material may I use?

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

(b) Coating material must be suitable for the prevention of atmospheric corrosion.

(c) Except portions of pipelines in offshore splash zones or soil-to-air interfaces, you need not protect against atmospheric corrosion any pipeline for which you demonstrate by test, investigation, or experience appropriate to the environment of the pipeline that corrosion will—

(1) Only be a light surface oxide; or

(2) Not affect the safe operation of the pipeline before the next scheduled inspection.

The Notice alleged that Respondent violated 49 C.F.R. § 195.581 by failing to clean and coat each portion of pipeline that is exposed to the atmosphere. Specifically, the Notice alleged that Sinclair did not clean and coat portions of its Missouri pipeline to protect it from atmospheric corrosion. Inspection records showed that the coating on portions of the pipeline was in poor condition, or that the pipeline was completely bare, with many spans of pipeline exhibiting corrosion. During the on-site inspection, PHMSA's inspector observed corrosion pits on multiple exposed pipe spans. 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. § 195.581 by failing to clean and coat each portion of pipeline that is exposed to the atmosphere.

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 \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.² 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

² 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.

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 \$34,200 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$34,200 for Respondent's violation of 49 C.F.R. § 195.581, for failing to clean and coat each portion of pipeline that is exposed to the atmosphere. Sinclair neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Atmospheric corrosion can cause serious damage to an exposed pipeline system, and can lead to a pipeline failure. Respondent is fully culpable for the failure to protect its pipeline from this risk. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$34,200 for violation of 49 C.F.R. § 195.581.

Respondent paid the civil penalty by wire transfer on June 30, 2015.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 1 in the Notice for violation of 49 C.F.R. § 195.581. 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 § 195.581 (**Item 1**):
 - a. Within 90 days of the issuance of this order, Respondent must:
 - i. Assess the integrity of the Missouri Pipeline at all locations where aboveground pipe is known to exhibit corrosion;
 - ii. Make necessary repairs to the pipe; and
 - iii. Clean and recoat the pipe at each repaired location.
 - b. Within 30 days of the issuance of this order, Respondent must submit to the Director a plan and schedule to complete inspection and repair of aboveground pipe locations exhibiting bare soil to air transition areas. Respondent must perform the planned repairs within 18 months. Respondent must provide the Director with quarterly progress reports, and a final report upon completion of repairs.
2. PHMSA requests that Sinclair maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. It is requested that these costs 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 changes to pipeline 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 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 ITEM

With respect to Item 2, the Notice alleged probable violations 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. § 195.452(k) (**Item 2**) — Respondent's alleged failure to include methods to measure the integrity management program's effectiveness in assessing and evaluating the integrity of each pipeline segment and in protecting the high consequence areas, specifically the failure to evaluate the effectiveness of hydrotest assessments.

If OPS finds a violation of this provision 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. 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. § 190.243. 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.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued