

December 29, 2016

Mr. Steven J. Kean  
President and Chief Executive Officer  
Kinder Morgan Inc.  
1001 Louisiana Street  
Houston, TX 77002-5089

**Re: CPF No. 3-2015-5008**

Dear Mr. Kean:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violations and assesses a civil penalty of \$36,300. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated April 26, 2016. 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,

Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

Enclosure

cc: Mr. Allan C. Beshore, Director, Central Region, OPS  
Mr. Wayne G. Simmons, VP – Engineering and Operations, Kinder Morgan Cochin,  
LLC, 500 Dallas Street, Suite 1000, Houston , Texas 77002  
(email) Mr. Vince Murchison, Esquire

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>Kinder Morgan Cochin, LLC</b> | ) |                            |
| <b>a Kinder Morgan Company</b>   | ) | <b>CPF No. 3-2015-5008</b> |
|                                  | ) |                            |
| <b>Respondent.</b>               | ) |                            |
|                                  | ) |                            |

**FINAL ORDER**

On July 23-27, 2012, 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 Kinder Morgan Cochin, LLC (Kinder Morgan Cochin or Respondent) in the areas of Charles City, Iowa, and Jamestown, North Dakota. Kinder Morgan Cochin operates 1,239 miles of highly volatile liquid from North Dakota, through Minnesota, Iowa, Illinois, Indiana, Michigan and Ohio.<sup>1</sup>

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated October 30, 2015, 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 Kinder Morgan Cochin had committed multiple violations of 49 C.F.R. § 195.428 and proposed assessing a civil penalty of \$51,400 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations.

Respondent responded to the Notice by letter dated January 4, 2016 (Response). With respect to Item 1 of the Notice only, Kinder Morgan Cochin contested the alleged violation, presented information seeking mitigation of the proposed penalty, and requested a hearing. The company did not contest the allegations of violation and associated civil penalty for Items 2 and 3 of the Notice. By letter dated March 17, 2016, the Director informed Respondent that Item 1 of the Notice and its associated Proposed Civil Penalty and Proposed Compliance Order would be withdrawn. By letter dated April 26, 2016 (Supplemental Response), Respondent withdrew its request for a hearing and thereby waived its right to one and authorized the entry of this Final Order without further notice. Further, Respondent paid the full penalty amount for Items 2 and 3 by wire transfer dated April 26, 2016.

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<sup>1</sup> Pipeline Safety Violation Report (Violation Report), (Oct. 30, 2015) (on file with PHMSA), at 1.

## **FINDINGS OF VIOLATION**

**Item 1:** 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 7 ½ 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 highly volatile liquids pump station pressure limiting device to determine that it was functioning properly, in good mechanical condition, and adequate from the standpoint of capacity and reliability. Specifically, the Notice alleged that Kinder Morgan Cochin's uses an electrical communication loop for operation of the overpressure protection system at its pump stations. This communication loop is from the pressure sensing line, to the transmitter, to the programmable logic controller, to the variable frequency drive or variable speed drive, and to the pump. In this scenario the "pressure limiting device" is the entire communication loop, since all of these devices must be functioning properly for pressure control. The Notice alleged that the entire loop must be inspected to meet the requirement of §195.428 but that Kinder Morgan Cochin only inspected the transmitters and did not inspect any other portion of the communication loop for four (4) inspection cycles from October 2010 to April 2012 at the Masonville Pump Station in Iowa.

Respondent contested the alleged violation, presented information seeking mitigation of the proposed penalty, and requested a hearing. As a result, by letter dated March 17, 2016, the Director informed Respondent that Item 1 of the Notice and its associated Proposed Civil Penalty and Proposed Compliance Order would be withdrawn. Accordingly, this alleged violation is withdrawn.

**Item 2:** 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 7 ½ 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 adequately inspect and test the pressure limiting device at the highly volatile liquids Alameda Pump Station to determine that it functioned at the proper pressure limit. Specifically, the Notice alleged that Kinder Morgan Cochin's inspection records of the Alameda Pump Station indicated that the pressure limiting device was set at 1200 pounds per square inch gauge (psig) on June 22, 2011, and 1300 psig on October 24, 2011, which are both above 110 percent of the 1000 psig maximum operating pressure limit.

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. § 195.428(a) by failing to adequately inspect and test the pressure limiting device at the highly volatile liquids Alameda Pump Station to determine that it functioned at the proper pressure limit.

**Item 3:** The Notice alleged that Respondent violated 49 C.F.R. § 195.428, 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 7 ½ 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 the highly volatile liquids Alameda Pump Station at intervals not to exceed 7 ½ months, but at least twice each calendar year. Specifically, the Notice alleged that Kinder Morgan Cochin did not have any records of inspection conducted on the pressure limiting devices at the station between June 1, 2010, and June 22, 2011. An inspection should have occurred no later than December 31, 2010. Therefore the inspection interval was exceeded by five months and 22 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. § 195.428(a) by failing to inspect and test the highly volatile liquids Alameda Pump Station at intervals not to exceed 7 ½ months, but at least twice each calendar year.

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 \$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>2</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 \$51,400 for the violations cited above.

**Item 1:** The Notice proposed a civil penalty of \$15,100. Since this item was withdrawn, the proposed civil penalty for this item is not assessed.

**Item 2:** The Notice proposed a civil penalty of \$14,700 for Respondent's violation of 49 C.F.R. § 195.428(a), for failing to adequately inspect and test the pressure limiting device at the highly volatile liquids Alameda Pump Station to determine that it functioned at the proper pressure limit. Kinder Morgan Cochin 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 \$14,700 for violation of 49 C.F.R. § 195.428(a). A payment for this Item was received on April 26, 2016.

**Item 3:** The Notice proposed a civil penalty of \$21,600 for Respondent's violation of 49 C.F.R. § 195.428(a), for failing to inspect and test the highly volatile liquids Alameda Pump Station at intervals not to exceed 7 ½ months, but at least twice each calendar year. Kinder Morgan Cochin 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 \$21,600 for violation of 49 C.F.R. § 195.428(a). A payment for this Item was received on April 26, 2016.

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 **\$36,300**, which has already been paid.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

December 29, 2016

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Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

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Date Issued

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<sup>2</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.