

April 5, 2018

Mr. Heath Norman
Co-Chief Executive Officer
Dakota Midstream, LLC
1400 Wewatta Street, Suite 310
Denver, Colorado 80202

Re: CPF No. 3-2017-6007

Dear Mr. Norman:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and specifies actions that need to be taken by Dakota Midstream, LLC, to comply with the pipeline safety regulations. 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 effective upon the date of mailing as 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 Beshore, Director, Central Region, Office of Pipeline Safety, PHMSA
Mr. David Graham, Project Manager, Dakota Midstream LLC, 1400 Wewatta Street,
Suite 310, Denver, CO 80202

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)	
Dakota Midstream, LLC,)	
Respondent.)	CPF No. 3-2017-6007

FINAL ORDER

From November 28 through December 2, 2016, 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 Dakota Midstream, LLC (DM or Respondent), near Alexandria, North Dakota. DM operates 65 miles of oil and gas pipelines in North Dakota.¹

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated September 1, 2017, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that DM had violated 49 C.F.R. §§ 195.565 and 195.579(a) and proposed ordering Respondent to take certain measures to correct the alleged violations.

Respondent responded to the Notice by letter dated October 13, 2017 (Response). The company did not contest the allegations of violation but provided information concerning the corrective actions it had agreed to complete under the Proposed Compliance Order. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

In its Response, DM 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. § 195.565, which states:

§ 195.565 How do I install cathodic protection on breakout tanks?

After October 2, 2000, when you install cathodic protection under §195.563(a) to protect the bottom of an aboveground breakout tank of more than 500 barrels 79.49m³ capacity built to API Spec 12F (incorporated by

¹ Dakota Midstream website, available at <http://dakota-midstream.com/about/> (last accessed February 1, 2018).

reference, *see* §195.3), API Std 620 (incorporated by reference, *see* §195.3), API Std 650 (incorporated by reference, *see* §195.3), or API Std 650's predecessor, Standard 12C, you must install the system in accordance with ANSI/API RP 651 (incorporated by reference, *see* §195.3). . . .

The Notice alleged that Respondent violated 49 C.F.R. § 195.565 by failing to install cathodic protection (CP) in accordance with ANSI/API Recommended Procedure (RP) 651. Specifically, the Notice alleged that DM failed to install CP on nine breakout tanks located at DM's Spackler Station and two breakout tanks located at the company's Wheatland Delivery facility. All 11 tanks were built to API Specification 12F and placed above non-conductive impermeable liners. Therefore, the tanks should have been equipped with CP installed between the liner and the tank bottom under API RP 651. On-site testing demonstrated that no effective CP was provided for the breakout tanks.

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. § 195.565 by failing to install CP on 11 breakout tanks in accordance with ANSI/API RP 651.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.579(a), which states:

§ 195.579 What must I do to mitigate internal corrosion?

(a) *General.* If you transport any hazardous liquid or carbon dioxide that would corrode the pipeline, you must investigate the corrosive effect of the hazardous liquid or carbon dioxide on the pipeline and take adequate steps to mitigate internal corrosion.

The Notice alleged that Respondent violated 49 C.F.R. § 195.579(a) by failing to take adequate steps to mitigate internal corrosion. Specifically, the Notice alleged that DM failed to install internal linings on nine breakout tanks located at DM's Spackler Station and two breakout tanks located at the company's Wheatland Delivery facility. According to the Notice, the tanks should have been equipped with internal linings under API RP 652 – Linings of Aboveground Petroleum Storage Tank Bottoms [incorporated by reference into Part 195, per § 195.579(d)]. Thus, DM allegedly failed to take adequate steps to mitigate internal corrosion on the breakout tanks.

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. § 195.579(a) by failing to take adequate steps to mitigate internal corrosion on 11 breakout tanks in accordance with API RP 652 and 49 C.F.R. § 195.579(d).

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1 and 2 in the Notice for

violations of 49 C.F.R. §§ 195.565 and 195.579(a), 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. 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 § 195.565 (**Item 1**), Respondent must install cathodic protection for the 11 breakout tanks at its Spackler Station and Wheatland Delivery facilities. Respondent must complete this item within 250 days of receipt of this Order.
2. With respect to the violation of § 195.579(a) (**Item 2**), Respondent must install internal linings for the 11 breakout tanks at its Spackler Station and Wheatland Delivery facilities. Respondent must complete this item within 250 days of receipt of this Order.

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.

It is requested that Respondent 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.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000, as adjusted for inflation (49 C.F.R. § 190.223), 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.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the 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, no later than 20 days after receipt of service of this Final Order by Respondent. Any petition submitted must contain a statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The terms of the order, including corrective action, remain in effect 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.

April 5, 2018

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued