

August 19, 2020

VIA ELECTRONIC MAIL TO: jswaren@oasispetroleum.com

Mr. Jason Swaren
Vice President – Operations
Oasis Midstream Partners, LP
1001 Fannin Street, Suite 1500
Houston, Texas 77002

Re: CPF No. 3-2019-5020

Dear Mr. Swaren:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a reduced civil penalty of \$177,700, and specifies actions that need to be taken by Oasis Midstream Partners LP, to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the compliance order completed, as determined by the Director, Central Region, this enforcement action will be closed. Service of the Final Order by electronic mail is effective upon the date of transmission 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 Copeland, Senior Regulatory Specialist, Oasis Midstream Partners, LP,
dcopeland@oasispetroleum.com
Mr. Thomas B. Nusz, Chairman and Chief Executive Officer, Oasis Petroleum, Inc.,
tnusz@oasispetroleum.com

CONFIRMATION OF 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)

Oasis Midstream Partners, LP,)
a general partner of Oasis Petroleum, Inc.,)

Respondent.)

CPF No. 3-2019-5020

FINAL ORDER

On multiple occasions between January 8, 2019, and April 20, 2019, pursuant to 49 U.S.C. § 60117, representatives 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 Oasis Midstream Partners, LP's (Oasis or Respondent) Johnson Corner (JC) and City of Williston (COW) pipelines in Watford City and Williston, North Dakota, respectively. The JC pipeline consists of 19 miles of 10.75" steel crude-oil pipeline transporting crude oil between Oasis's Wild Basin Crude Handling Facility to two separate interconnects at Johnson's Corner, North Dakota, for further transportation to other pipelines and depots. The COW pipeline is an approximately 1.4-mile, steel X52, 6" gathering pipeline transporting crude oil from Oasis' COW drilling space unit (DSU) to a central tank battery where the product is trucked out for delivery.¹ Oasis is a master limited partnership formed by Oasis Petroleum, Inc.²

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated June 17, 2019, 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 Oasis had violated 49 C.F.R. § 194.107, and committed eight other probable violations of 49 C.F.R. Part 195 and proposed assessing a civil penalty of \$207,800 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations. The warning items required no further action but warned the operator to correct the probable violations or face possible future enforcement action.

¹ See Pipeline Safety Violation Report, dated June 17, 2019 (Violation Report) (on file with PHMSA), at 1.

² See <https://www.oasismidstream.com/about/> (last accessed August 7, 2020). The Operator ID (OPID) on file with PHMSA identifies the operator as "Oasis Petroleum North America", but there is no reference to any such entity on Oasis' website. For purposes of this Final Order, Oasis Midstream Partners, LP, and Oasis Petroleum North America are the same.

After requesting and receiving an extension of time to respond, Oasis responded to the Notice by letter dated September 11, 2019 (Response), and again on September 30, 2019 (Supplemental Response). The company contested some of the allegations, offered additional information in response to the Notice, and requested that the proposed civil penalty be reduced or eliminated.

Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Parts 194 and 195, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 194.107(c)(1)(ix), which states:

§ 194.107 General response plan requirements.

(a)

(c) Each response plan must include:

(1) A core plan consisting of— . . .

(ix) Drill program—an operator will satisfy the requirement for a drill program by following the National Preparedness for Response Exercise Program (PREP) guidelines. An operator choosing not to follow PREP guidelines must have a drill program that is equivalent to PREP. The operator must describe the drill program in the response plan and OPS will determine if the program is equivalent to PREP.

The Notice alleged that Respondent violated 49 C.F.R. § 194.107(c)(1)(ix) by failing to follow the PREP guidelines. Specifically, the Notice alleged that Oasis did not perform all required PREP drills within a three-year period, as required by the PREP guidelines, or a drill program that is equivalent to PREP. The JC pipeline had five missing PREP drill activities between 2016 and 2017.

On the one hand, Respondent did not contest this allegation of violation, acknowledging “that it did not meet all of its PREP Drill requirements at the start of Johnson’s corner (JC) pipeline facility.” On the other hand, it asserted that the allegation in the Notice that it failed to conduct all required PREP drills in 2016 and 2017 was “inaccurate.”³ However, this statement is unsupported by the record and must be weighed against certain unchallenged allegations in the Notice. Specifically, the Notice identified a document titled “Johnson’s Corner Start-up on 10/10/2016,” which identified five missing PREP drills for the JC pipeline between 2016 and 2017. Further, the Notice alleged that an Oasis employee stated to the PHMSA inspector that not all required PREP drills had been completed for the JC pipeline during that same time period. Based on the totality of the evidence, I find that PHMSA has met its burden of proving this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 194.107(c)(1)(ix) by failing to follow the PREP guidelines for the JC pipeline on five occasions between 2016-2017.

³ Response, at 2 (on file with PHMSA).

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.403(a), which states, in relevant part:

§ 195.403 Emergency response training.

(a) Each operator shall establish and conduct a continuing training program to instruct emergency response personnel to:

(1) Carry out the emergency procedures established under 195.402 that relate to their assignments; . . .

(5) Learn the potential causes, types, sizes, and consequences of fire and the appropriate use of portable fire extinguishers and other on-site fire control equipment, involving, where feasible, a simulated pipeline emergency condition.

The Notice alleged that Respondent violated 49 C.F.R. § 195.403(a) by failing to establish and conduct a continuing training program to instruct emergency response personnel to carry out the emergency procedures established under § 195.402 that relate to their assignments. Specifically, the Notice alleged that Oasis records indicated 39 individuals had undergone emergency response training from 2016 to 2018, but that the training failed to comply with § 195.403(a)(1) and (a)(5). Under § 195.402(e)(1), an operator's manual of written procedures for handling emergencies must include procedures for "[r]eceiving, identifying, and classifying notices of events which need immediate response by the operator or notice to fire, police, or other appropriate public officials and communicating this information to appropriate operator personnel for corrective action."

The Notice alleged that Oasis' training program failed to address the receiving, identifying, and classifying of event notices that need immediate response by the operator. Additionally, Oasis' training program allegedly failed to instruct, as provided by § 195.403(a)(5), emergency response personnel on the potential causes, types, sizes, and consequences of fires and the appropriate use of portable fire extinguishers and other on-site fire-control equipment, involving, where feasible, a simulated pipeline emergency condition.

In its Response, Oasis provided information related to the training of its personnel and certain improvements it had made to its training program in support of its request that PHMSA withdraw this item or reduce it to a warning item or a notice of amendment.⁴

Oasis maintained that the steps it had taken in response to the Notice warrant a reduction of this item from a probable violation to something less. The record, however, does not provide a basis for doing so. Significantly, Oasis acknowledged in its Response that "it did not meet all of its operator personnel training requirements at the start of the JC pipeline facility."⁵ Oasis further stated that it "acknowledged deficiencies identified during the 2018 inspection in real time, demonstrating its collaborative, open approach with PHMSA."

Oasis's actions in addressing these training deficiencies are welcomed by PHMSA, but such

⁴ Response, at 4-5.

⁵ *Id.*, at 4.

after-the-fact conduct does not provide a basis to absolve Oasis of its acknowledged violations, nor does it warrant reducing the violation to something less. The violation was not merely a failure to have adequate training procedures, which could serve as the basis for a notice of amendment, but rather, a failure to conduct code compliance training for 39 individuals from 2016 to 2018. There is nothing in the record to rebut this allegation.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.403(a) by failing to establish and conduct a continuing training program to instruct emergency response personnel to carry out the emergency procedures established under § 195.402 that relate to their assignments.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 195.420(b), which states:

§ 195.420 Valve maintenance.

(a)

(b) Each operator shall, at intervals not exceeding 7½ months, but at least twice each calendar year, inspect each mainline valve to determine that it is functioning properly.

The Notice alleged that Respondent violated 49 C.F.R. § 195.420(b) by failing to inspect each mainline valve to determine that it is functioning properly, at intervals not exceeding 7½ months but at least twice each calendar year. Specifically, the Notice alleged that the JC pipeline went into service on October 10, 2016, but the first valve inspection was not completed until March 3, 2018. According to the Notice, Oasis personnel stated to PHMSA inspectors that no valve inspections had occurred during that period. Thus, there were two inspection cycles missed for four valves, for a total of eight valve inspections that were not performed.

In its Response, Oasis stated that “[w]ithout conceding the underlying violation,” it acknowledged that it “did not meet frequency requirements for valve inspections at the start of the JC pipeline facility” and that it had “acknowledged deficiencies identified during the subject inspection in real time, demonstrating its collaborative, open approach with PHMSA.”⁶ The company therefore suggested that the agency should reduce the proposed civil penalty, an argument that is discussed more fully in the “Assessment of Penalty” section below.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.420(b) by failing to inspect each mainline valve to determine that it is functioning properly, at intervals not exceeding 7½ months but at least twice each calendar year.

Item 5: The Notice alleged that Respondent violated 49 C.F.R. § 195.446(h)(4), which states:

§ 195.446 Control room management.

(a)

(h) *Training.* Each operator must establish a controller training program and review the training program content to identify potential improvements at least once each calendar year, but at intervals not to exceed

⁶ *Id.*, at 5-6.

15 months. An operator's program must provide for training each controller to carry out the roles and responsibilities defined by the operator. In addition, the training program must include the following elements:

- (1) . . .
- (4) Training that will provide a controller a working knowledge of the pipeline system, especially during the development of abnormal operating conditions;

The Notice alleged that Respondent violated 49 C.F.R. § 195.446(h)(4) by failing to establish a controller training program that provides its controllers with a working knowledge of the operator's pipeline system, especially during the development of abnormal operating conditions. Specifically, the Notice alleged that an essential part of the working knowledge of the pipeline system includes knowledge of its safety-related data points, and that Oasis had not developed a list of such points.⁷ Five controllers attended the operator's control room management training and during its inspection, PHMSA allegedly interviewed one controller who stated that he had not seen a list of safety-related points for Oasis' system and was unaware of which points were safety-related beyond "Maximum Operating Pressure" (MOP) and high pressure.

In its Response, Oasis stated that it did not "contest the alleged violation subject to the correction of relevant facts."⁸ In particular, Oasis contended that the company had provided information to PHMSA demonstrating that safety-related points had actually been identified to the OPS inspectors prior to the 2018 inspection. Oasis requested that PHMSA consider the relevant facts and either withdraw or convert the alleged violation to a warning item or notice of amendment.

The record, however, does not support a "correction" of the alleged facts since none of the facts put forward by Respondent actually relate to the training received by its controllers, nor do they warrant a reduction of this item to a warning or notice of amendment. The most relevant facts underlying the alleged violation stand uncontested and are sufficient on their own to uphold the violation. First, the Notice alleged that one of Oasis's own controllers stated during an interview with a PHMSA inspector that he was not aware of which SCADA points were safety-related and had not seen a list of such points. That fact alone, without credible evidence rebutting the allegation, shows that Oasis failed to properly train all of its controllers consistent with the requirements of the regulation. Although Oasis stated in its Response that it provided PHMSA with a list of safety-related data points during the inspection, that fact does not rebut the allegation that Oasis failed to properly train its employees on these safety-related data points, an

⁷ To conduct an adequate control room management training program, an operator must provide its controllers with "a working knowledge" of the company's pipeline system. This is spelled out in more detail under paragraph (c) of § 195.466, which requires that an operator must provide its controllers with the information, tools, processes and procedures necessary to carry out their responsibilities. This specifically includes the ability to conduct a "point-to-point verification between [Supervisory Control and Data Acquisition Systems (SCADA)] displays and related field equipment when field equipment is added or moved and when other changes that affect pipeline safety are made to field equipment or SCADA displays." For more information about safety-related SCADA points, see *Control Room Management Frequently Asked Questions (FAQs)* (updated 1/16/2018), FAQ C.01, at <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/docs/technical-resources/pipeline/control-room-management/60636/faqs-control-room-management-20180726.pdf>.

⁸ Response, at 6-7.

allegation that is supported by the statement referenced above by an Oasis controller. Second, as Oasis admits in its Response, it did not amend its procedures to include a detailed list of safety-related data points specific to its unique system until after the PHMSA inspection took place.⁹

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.446(h)(4) by failing to establish a controller training program that provides its controllers with a working knowledge of the company's pipeline system, especially during the development of abnormal operating conditions.

Item 6: The Notice alleged that Respondent violated 49 C.F.R. § 195.446(j)(1), which states:

§ 195.446 Control room management.

(a)

(j) *Compliance and deviations.* An operator must maintain for review during inspection:

(1) Records that demonstrate compliance with the requirements of this section;

The Notice alleged that Respondent violated 49 C.F.R. § 195.446(j)(1) by failing to maintain records as required by § 195.446(j)(1) to demonstrate compliance with the control room management regulations. Specifically, the Notice alleged that during the inspection, Oasis could not produce records for the point-to-point verifications required by § 195.446(c)(2). A total of 14 points did not have verification documentation.

In its Response, Oasis contested the allegation of violation and stated as follows: "Subject to correction of relevant facts, Oasis contests the alleged violation without requesting a hearing."¹⁰ Specifically, Oasis stated in its Response that it "provided PHMSA records of point-to-point verifications and lists of identified safety-related points as well as revisions to associated procedures as part of the 2018 inspection process on May 7, 2018, June 04, 2018, September 13, 2019, and on October 1, 2018, ... [and that] point-to-point verifications are not required to show compliance with § 195.466(c)(2)."¹¹ In addition, Oasis submitted a Supplemental Response for Item 6 that purports to address the allegation in the Notice that Oasis was unable to provide records evidencing that point-to-point verification was performed for the 14 points alleged to be lacking relevant records.¹²

Oasis's argument that point-to-point verifications are not required to show compliance with

⁹ *Id.*

¹⁰ *Id.*, at 7. The Response went on to state that Oasis was "providing information and explanations it believes should be considered by the Administration for the purpose of changing, reducing, or eliminating the PCP for the alleged violation." Some of this information challenged the allegation of violation and is therefore discussed here. Other information sought to reduce or eliminate the proposed penalty and is therefore discussed in the "Assessment of Penalty" section below.

¹¹ *Id.*, at 8.

¹² Supplemental Response, at 1, 4.

§ 195.446(c)(2) is incorrect. Section 195.446(c)(2) clearly states that operators, via their controllers, must “[c]onduct a point-to-point verification between SCAD A displays and related field equipment when field equipment is added” This is a requirement for the initial connection of these devices and an operator is required to maintain for review during a PHMSA inspection all records demonstrating compliance with the verification requirement. Oasis failed to do so in this case. Further, the records provided by Oasis in its Supplemental Response show that the 14 points were verified in 2017. The Oasis pipeline went into operation in 2016 and the records that were allegedly missing relate to the initial point-to-point verifications that were required to take place in 2016.

Accordingly, after considering all of the evidence and the legal issues presented, I find that Respondent violated 49 C.F.R. § 195.446(j)(1) by failing to maintain records as required by § 195.446(j)(1) to demonstrate compliance with the control room regulations in § 195.446(c)(2).

Item 7: The Notice alleged that Respondent violated 49 C.F.R. § 195.505(b), which states:

§ 195.505 Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

- (a)
- (b) Ensure through evaluation that individuals performing covered tasks are qualified; . . .

The Notice alleged that Respondent violated 49 C.F.R. § 195.505 by failing to follow its own written qualification program. Specifically, the Notice alleged that Oasis' Operator Qualification (OQ) plan required written (knowledge) and performance evaluations for all covered tasks as listed in the plan's Appendix C, "*Qualification Requirements Column - Knowledge and Performance.*" Although written evaluations were completed before pipeline operations began, there were no performance evaluations conducted until after the JC pipeline began operations on October 10, 2016. Oasis provided information detailing certain tasks that were performed by nine unqualified personnel. Based on documentation the PHMSA inspector reviewed, the JC pipeline was operated from October 10, 2016, through May 1, 2017, by four unqualified North Dakota controllers. It wasn't until April 4, 2017 that the first Houston controller received adequate operator qualification training and began controlling the pipeline on May 2, 2017. Additionally, this submittal showed that five other OQ covered tasks (i.e., patrolling, launching/receiving pigs, operating valves, and line locating) were performed on the pipeline by six unqualified field personnel in North Dakota.

In its Response, Oasis acknowledged “that it did not meet key personnel qualification requirements in accordance with [its] Operator Qualification program (OQ) at the start of the JC pipeline facility . . .” and that the company “acknowledged deficiencies identified during the 2018 inspection in real time, demonstrating Oasis’s collaborative, open approach with PHMSA.”¹³ The company also provided certain information that sought to reduce or eliminate the proposed penalty, which will be discussed more fully in the “Assessment of Penalty” section

¹³ *Id.*, at 9-10.

below, but nothing in Oasis's Response shows that Oasis did not violate the regulation.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.505 by failing to follow its own written qualification program.

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.¹⁴ 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; 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 \$207,800 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$20,300 for Respondent's violation of 49 C.F.R. § 194.107(c)(1)(ix), for failing to perform all required PREP drills on the JC pipeline within a three-year period, as required by the PREP guidelines, or a drill program that is equivalent to PREP. In its Response, Oasis requested that the proposed civil penalty be reduced or eliminated, under the good-faith assessment criterion, on the basis that it had instituted certain improvements to its emergency response program and that it had made "chronological improvement in both drill frequency and administrative process."¹⁵ While Oasis is to be commended for improving its internal processes to ensure compliance with the pipeline safety regulations, such post-inspection activities do not warrant the withdrawal of, or a reduction in, a proposed civil penalty. Further, such ongoing actions and improvements are ones that PHMSA would expect of any prudent operator. In summary, I can find no evidence or argument in the record that would warrant elimination or reduction of the proposed penalty.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$20,300 for violation of 49 C.F.R. § 194.407(c)(1)(ix).

Item 4: The Notice proposed a civil penalty of \$21,400 for Respondent's violation of 49 C.F.R. § 195.420(b), for failing to inspect, at intervals not exceeding 7½ months but at least twice each calendar year, each mainline valve on the JC pipeline to determine that it functioned properly. In its Response, Oasis asked that the proposed civil penalty be eliminated or reduced, particularly

¹⁴ These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223.

¹⁵ Response, at 2.

by receiving a credit under PHMSA's "good faith" penalty criterion. In support of its request, Oasis stated that in 2016, it had committed to implementing a cloud-based system for preventive maintenance and repairs and had committed additional resources to further develop this system in 2018. I find that while Oasis may have made efforts to improve its maintenance and repair software and committed additional resources to its Operations and Maintenance (O&M) efforts in 2018, there is no evidence that such measures were aimed specifically at correcting or preventing violations of § 195.420(b) prior to the 2018 PHMSA inspection. On the contrary, Oasis failed to comply with a requirement that was clearly applicable and did not have a reasonable justification for non-compliance. Additionally, the proposed civil penalty already accounted for, and proposed a lower penalty on account of, pipeline safety being minimally affected. Therefore, no elimination or further reduction of the proposed civil penalty for Item 4 is justified. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$21,400 for violation of 49 C.F.R. § 195.420(b).

Item 5: The Notice proposed a civil penalty of \$46,600 for Respondent's violation of 49 C.F.R. § 195.446(h)(4), for failing to failing to establish a controller training program that provides its controllers with a working knowledge of the company's pipeline system, especially for abnormal operating conditions. In its Response, Oasis requested that the proposed civil penalty be eliminated or reduced based on improvements it had made to its procedures to address the violation alleged in the Notice. However, as was the case with the previous Item, the procedural changes were not implemented by Oasis until after OPS began its 2018 inspection, and thus do not serve as the basis to reduce or eliminate the proposed civil penalty.

Additionally, Oasis objected to the proposed penalty amount because it 'appears inconsistent with PHMSA policy.'¹⁶ Specifically, Oasis asserted that the imposition of a civil penalty, and the bringing of this Item as a regulatory violation, as opposed to a Notice of Amendment(NOA), appear inconsistent with sections 3.1.1.3 and 3.1.3.1 of *PHMSA's Pipeline Safety Enforcement Procedures*.¹⁷ I disagree. Oasis's contention misapplies the procedures and omits significant language contained therein. First, the enforcement procedures are used as *guidance* for bringing enforcement cases, but are not to be construed as mandatory or binding when PHMSA exercises its enforcement authority and discretion. Second, section 3.1.1.3 specifically states that "[a] civil penalty may be proposed for any probable violation . . ." The Director was well within his discretion to propose a civil penalty for this Item, and nothing in the procedures or the regulations prevent me from imposing a civil penalty for this Item. With regard to section 3.1.3.1, which discusses when to use an NOA for an alleged violation of the pipeline safety regulations, I reject the contention that this Item should have been an NOA. As I found above for this Item, Oasis failed to properly train its controllers with respect to its procedures, not that the procedures were inadequate to ensure compliance with the regulation, and the improper training was not an isolated event but involved a number of individuals over a sustained period of time. For these reasons, I reject Oasis's contention that bringing this Item in the Notice and with a proposed civil penalty attached is inconsistent with PHMSA's internal enforcement policies.

¹⁶ *Id.*, at 7.

¹⁷ See <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/docs/regulatory-compliance/pipeline/enforcement/69421/section-3-selection-administrative-enforcement-actions-april-27-2018.pdf>.

The proposed civil penalty correctly accounted for Oasis' failure to comply with a requirement that was clearly applicable and the absence of a reasonable justification for the non-compliance. Finally, the proposed civil penalty accounted for the fact that the OPS inspectors discovered the violation, and that the violation could affect a high consequence area segment during day-to-day operations. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$46,600 for violation of 49 C.F.R. § 195.446(h)(4).

Item 6: The Notice proposed a civil penalty of \$20,000 for Respondent's violation of 49 C.F.R. § 195.446(j)(1), for failing to maintain records demonstrating compliance with § 195.446(c)(2). In its Response and Supplemental Response, Oasis requested that the proposed civil penalty associated with this Item be eliminated or reduced, but did not provide any information in support of its request as it relates to the proposed penalty calculation beyond what was addressed above in the "Findings of Violation" section. Finally, Oasis alleged that the proposed civil penalty and the nature of how this Item was brought (Notice versus NOA) violated PHMSA policy. For the same reasons stated above in Item 5, I reject the contention that this Item is somehow inconsistent with PHMSA's enforcement policy. I would further note that the proposed penalty already took into account the fact that the non-compliance involved a records violation and that pipeline safety was minimally affected. Additionally, the proposed civil penalty correctly accounted for Oasis' failure to comply with a requirement that was clearly applicable and the company's failure to have a reasonable justification for its non-compliance. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$20,000 for violation of 49 C.F.R. § 195.446(j)(1).

Item 7: The Notice proposed a civil penalty of \$99,500 for Respondent's violation of 49 C.F.R. § 195.505(b), for failing to follow its written qualification program by allowing four unqualified North Dakota controllers to operate the JC pipeline between October 10, 2016, through May 1, 2017, and that five other covered tasks (patrolling, launching/receiving pigs, operating valves, and line locating) were performed by six unqualified field personnel in North Dakota. In its Response, Oasis requested that the proposed civil penalty be eliminated or reduced, arguing that, contrary to the allegations in the Notice, the right-of-way patrols were performed by qualified personnel and that there were five, rather than six, unqualified employees who performed covered tasks.

The record reflects that Oasis is correct that the qualification issue was discovered and corrected prior to the PHMSA inspection, that there were five, not six, unqualified employees performing covered tasks, and that four controllers operated the pipeline while being unqualified. In addition, the record reflects that Oasis took documented steps to address the cause of the non-compliance and was in the process of correcting the non-compliance when it was discovered by PHMSA. Such action warrants a reduction in the civil penalty under the culpability assessment criterion. Oasis's failure to self-report the violation is already accounted for in the civil penalty calculation under the "Circumstances" assessment criterion on the Violation Report. Accordingly, the culpability factor used in calculating the proposed civil penalty is reduced from three to four, and the number of instances of violation is reduced from ten to nine. Based upon the foregoing, I assess Respondent a reduced civil penalty of \$69,400 for violation of 49 C.F.R. § 195.505(b).

In summary, having reviewed the record and considered the assessment criteria for each of the

Items cited above, I assess Respondent a total reduced civil penalty of **\$177,700**.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to be made by wire transfer through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMK-325), Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 S MacArthur Blvd, Oklahoma City, Oklahoma 79169. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the \$177,700 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a district court of the United States.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 3 and 5 in the Notice for violations of 49 C.F.R. §§ 195.403(a) and 195.446(h)(4), 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. The Director has indicated that Respondent has completed the program enhancements and training as required by the Proposed Compliance Order to address the deficiencies that served as the basis for the violation in Item 3. Accordingly, I find that compliance has been achieved with respect to this violation. Therefore, the compliance terms proposed in the Notice for Item 3 are not included in this Order.

As for the remaining compliance terms, 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 § 195.446(h)(4) (**Item 5**), Respondent must amend its controller training program to include a list of safety-related data points. Oasis must provide the revised program and documentation of training provided to its controllers to the Director within 90 days of receipt of this Final 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 (not mandated) 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 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.

WARNING ITEMS

With respect to Items 2, 8 and 9, the Notice alleged probable violations of Part 195, but identified them as warning items pursuant to § 190.205. The warnings were for:

49 C.F.R. § 195.402(d)(1) (**Item 2**) — Respondent's alleged failure to follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies;

49 C.F.R. § 195.563(a) (**Item 8**) — Respondent's alleged failure to have a cathodic protection system in operation no later than one year after its pipeline was constructed; and

49 C.F.R. § 195.591 (**Item 9**) — Respondent's alleged failure to comply with the requirements and recommendations of NACE SP0102-2010 when conducting the in-line inspection of pipelines required by Part 195.

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 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 filing of a petition automatically stays the payment of any civil penalty assessed. The other 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.

August 19, 2020

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued