

March 31, 2022

VIA ELECTRONIC MAIL TO: gerald.a.knoyle@p66.com

Mr. Gerald Knoyle
Vice President, Wood River Refinery
WRB Refining LP
PO Box 76
900 South Central Ave
Roxana, Illinois 62084

Re: CPF No. 3-2021-028-NOPV

Dear Mr. Knoyle:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$46,600. It further finds that WRB Refining LP has completed the actions specified in the Notice to comply with the pipeline safety regulations. When the civil penalty has been paid, this enforcement action will be closed. Service of the Final Order by e-mail is effective upon the date of transmission and acknowledgment of receipt 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. Gregory A. Ochs, Director, Central Region, Office of Pipeline Safety, PHMSA
Mr. Todd Denton, President, Phillips 66, todd.denton@p66.com
Mr. Doug Sauer, Manager, Pipeline Regulatory Affairs, Phillips 66, doug.b.sauer@p66.com
Mr. Todd Fuksa, Director of DOT Compliance, Phillips 66, todd.t.fuksa@p66.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)

WRB Refining LP,)

Respondent.)

CPF No. 3-2021-028-NOPV

FINAL ORDER

From February 10, 2020 through September 11, 2020, 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 WRB Refining LP's Wood River Refinery (WRB or Respondent) in Roxana, Illinois. WRB is a partnership between Phillips 66 and Cenovus Energy that operates crude oil pipelines in Roxana, Illinois.¹ The Wood River Refinery Crude Relief consists of three breakout tanks and associated manifold piping and it provides surge relief for the Keystone, Ozark, and Capwood pipelines.²

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated November 2, 2021, 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 WRB had committed two violations of 49 C.F.R. Part 195, proposed assessing a civil penalty of \$46,600 for the alleged violations, and proposed ordering Respondent to take certain measures to correct the alleged violations. The Notice also included three warning items pursuant to 49 C.F.R. § 190.205, which required no further action, but warned the operator to correct the probable violations or face possible future enforcement action

WRB responded to the Notice by letter dated November 22, 2021 (Response). The company did not contest the allegations of violation but provided an explanation of its actions and requested that the Proposed Civil Penalty be withdrawn or reduced. Respondent did not request a hearing and therefore has waived its right to one.

¹ Phillips 66 – Wood River Refinery website, available at <https://www.phillips66.com/refining/wood-river-refinery> (last accessed February 3, 2022).

² Pipeline Safety Violation Report (Violation Report), (November 2, 2021) (on file with PHMSA), at 1.

FINDINGS OF VIOLATION

In its Response, WRB 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. § 195.302(a):

§ 195.302 General requirements.

(a) Except as otherwise provided in this section and in § 195.305(b), no operator may operate a pipeline unless it has been pressure tested under this subpart without leakage. In addition, no operator may return to service a segment of pipeline that has been replaced, relocated, or otherwise changed until it has been pressure tested under this subpart without leakage.

The Notice alleged that Respondent violated 49 C.F.R. § 195.302(a) by failing to pressure test three pipe segments at its Wood River facility before operating the pipeline. Specifically, the Notice alleged that WRB operated its fill lines for Tanks A82, A83, and A84 without pressure testing. WRB failed to produce any evidence that the fill lines for Tanks A82, A83, and A84 had been pressure tested prior to operation.

Respondent did not contest this allegation of violation. Accordingly, based on a review of the evidence, I find that Respondent violated 49 C.F.R. § 195.302(a) by failing to pressure test three pipe segments at its Wood River facility before operating the pipeline.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(b)(1):

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(b) *What program and practices must operators use to manage pipeline integrity?* Each operator of a pipeline covered by this section must:

(1) Develop a written integrity management program that addresses the risks on each segment of pipeline in the first column of the following table no later than the date in the second column:

Pipeline	Date
Category 1	March 31, 2022.
Category 2	February 18, 2003.
Category 3	Date the pipeline begins operation as provided in § 195.12 for low stress pipelines in rural areas.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(b)(1) by failing to develop a written integrity management (IM) program within the requisite time frame for its Roxana, Illinois facility located within a High Population High Consequence Area. Specifically, the Notice alleged that WRB did not develop and implement a written IM program until April 30,

2019, for its Ozark, Capwood, and Keystone relief lines. The Notice alleged further that WRB had been operating its Ozark and Capwood relief lines since 1967, and its Keystone relief line since 2010.

In its Response, Respondent stated that its program for managing integrity “did not formally align with 195.452 requirements in entirety until April 2019.” Accordingly, based on a review of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(b)(1) by failing to develop a written IM program within the requisite time frame for its Roxana, Illinois facility located within a High Population High Consequence Area.

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.³

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; the good faith of Respondent in attempting to comply with the pipeline safety regulations; and self-disclosure or actions to correct a violation prior to discovery by PHMSA. 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 \$46,600 for the violation cited above.

Item 4: The Notice proposed a civil penalty of \$46,600 for Respondent’s violation of 49 C.F.R. § 195.452(b)(1), for failing to develop a written IM program for its Roxana, Illinois facility. WRB argued that the civil penalty should be reduced or withdrawn for several reasons.

With respect to culpability, the Violation Report alleged that Respondent did not comply with § 195.452(b)(1) until after PHMSA informed it during an inspection in 2018 that its Keystone relief lines were jurisdictional.⁴ Respondent argued that it remediated the violation in April 2019, prior to the most recent inspection. Since PHMSA was aware of the violation in 2018 before corrective action was taken, I find that a reduction in the civil penalty is not warranted.

With respect to gravity, the Violation Report alleged that the violation occurred within a high consequence area (HCA) and that Respondent should have recognized that this was an applicable

³ These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223.

⁴ Violation Report, at 17, 19.

requirement.⁵ Respondent explained that before 2019, it had an IM program in place but it “did not formally align with 195.452 requirements in entirety until April 2019.”⁶ However, Respondent is cited for violating § 195.452(b)(1) which contains deadlines for the development of IM programs. It is critical for the protection of HCAs that operators have an IM program that complies with all of the applicable requirements by the deadlines set forth in the regulation. Failure to have a compliant IM program presents a significant safety risk to HCAs, which by definition are the most sensitive areas that warrant the highest protection. Here, WRB admitted it did not develop an IM program within the regulatory deadline. Therefore, I find that a reduction in the civil penalty is not warranted.

Also with respect to gravity, Respondent argued that leak history records and other information provided to PHMSA inspectors at the time of the inspection show that asset integrity was maintained based on a 10-year leak history documentation that showed no leaks during that time. While PHMSA recognizes that, fortunately, no leaks may have occurred during the time period in question, as noted above, Respondent’s failure to have a compliant IM program constituted an unacceptable safety risk to HCAs. WRB admitted it did not have a compliant IM program until April 2019, years after its Ozark, Capwood, and Keystone relief lines and associated facilities began operations. Respondent did not dispute that the violation occurred within an HCA. Therefore, I find that a reduction in the civil penalty is not warranted.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$46,600 for a violation of 49 C.F.R. § 195.452(b)(1).

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 \$46,600 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 Item 1 in the Notice for a violation of 49 C.F.R. § 195.302(a). Under 49 U.S.C. § 60118(a), each person who engages in the

⁵ Violation Report, at 18.

⁶ Response, at 6.

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 indicates that Respondent has taken the following actions specified in the proposed compliance order:

1. With respect to the violation of § 195.302(a) (**Item 1**), Respondent completed hydrostatic testing on the fill lines for Tanks A82, A83, and A84 on April 12, 2021, May 13, 2021, and June 4, 2021, respectively.

Accordingly, I find that compliance has been achieved with respect to this violation. Therefore, the compliance terms proposed in the Notice are not included in this Order.

WARNING ITEMS

With respect to Items 2, 3, and 5, 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. § 195.310(b)(1) (**Item 2**) — Respondent's alleged failure to retain records of each pressure test for its Keystone mainline relief pipeline;

49 C.F.R. § 195.402(a) (**Item 3**) — Respondent's alleged failure to prepare and follow a manual of written procedures for conducting normal operations and maintenance activities until April 2019; and

49 C.F.R. § 195.505 (**Item 5**) — Respondent's alleged failure to have and follow a written operator qualification program until April 2019.

WRB presented information in its Response showing that it had taken certain actions to address the cited items.⁷ 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. The written petition must be received no later than 20 days after receipt of the Final Order by Respondent. Any petition submitted must contain a brief 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 any corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay. If Respondent submits payment of the civil penalty, the Final Order becomes the final administrative decision and the right to petition for reconsideration is waived.

⁷ For Item 2, WRB stated it has maintained the pressure testing records from an April 27, 2021 hydrostatic test. Response, at 2.

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

March 31, 2022

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued