

DECEMBER 19, 2013

Mr. Barry Petty
President & CEO
Trinity Pipeline GP, LLC
401 West Wall Street
Midland, TX 79701

Re: CPF No. 4-2013-5013

Dear Mr. Petty:

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 Trinity Pipeline GP, LLC, to comply with the pipeline safety regulations. When the terms of the compliance order have been completed, as determined by the Director, Southwest 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: Mr. Rodrick M. Seeley, Director, Southwest Region, OPS
Mr. Bryan Hargrove, Senior Vice President, Trinity Pipeline GP, LLC

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)	
)	
Trinity Pipeline GP, LLC,)	CPF No. 4-2013-5013
)	
Respondent.)	
_____)	

FINAL ORDER

On September 9-14, 2012, and September 17-20, 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 Trinity Pipeline GP, LLC (Trinity or Respondent), near Seminole, Texas. Trinity operates a carbon dioxide (CO₂) supply and transportation business with approximately 185 miles of CO₂ pipeline.¹ PHMSA's inspection covered Trinity's Hobbs Facility and approximately 100 miles of CO₂ pipeline between Texas and New Mexico.

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated June 13, 2013, a Notice of Probable Violation 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 Trinity had committed various violations of 49 C.F.R. Part 195 and ordering Respondent to take certain measures to correct the alleged violations. The warning item required no further action but warned the operator to correct the probable violation or face possible enforcement action.

Trinity responded to the Notice by letters dated July 12 and August 5, 2013 (collectively, Response). The company did not contest the allegations of violation but provided information concerning the corrective actions it had taken. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

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

¹ Trinity website, available at <http://www.trinityco2.com/businesses> (last accessed December 6, 2013).

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a), which states:

§ 195.402 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a) by failing to prepare and follow its own manual of written procedures for conducting normal operations and maintenance activities. Specifically, the Notice alleged that Trinity failed to follow its own Operations & Maintenance (O&M) Procedures for selecting a repair method for shallow gouges and grooves. The Notice further alleged that Trinity failed to follow the repair procedures required by ASME B31.4, referenced in Trinity's O&M manual, by installing a "Clock Spring" composite sleeve instead of using one of the three repair methods specified by the manual.

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. § 195.402(a) by failing to follow its own manual of written procedures for conducting normal operations and maintenance activities.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a), which states:

§ 195.402 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a) by failing to follow its own manual of written procedures for conducting normal operations and maintenance activities. Specifically, the Notice alleged that Trinity failed to follow *Section 1.14.2, Activity – General*, of its O&M manual, which requires employees performing covered tasks related to corrosion control to meet minimum training requirements. It alleged that Trinity employees engaged in corrosion control had not been certified by NACE as "Cathodic Protection Testers," as required

by Trinity's own procedures.

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. § 195.402(a) by failing to follow its own manual of written procedures for conducting normal operations and maintenance activities.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 195.571, which states:

§ 195.571 What criteria must I use to determine the adequacy of cathodic protection?

Cathodic protection required by this Subpart must comply with one or more of the applicable criteria and other considerations for cathodic protection contained in paragraphs 6.2 and 6.3 of NACE SP 0169 (incorporated by reference, *see* §195.3).

The Notice alleged that Respondent violated 49 C.F.R. § 195.571 by failing to comply with one or more of the applicable criteria and other considerations for cathodic protection contained in paragraph 6.2 of NACE SP 0169. Specifically, the Notice alleged that Trinity failed to consider the voltage drop required by paragraph 6.2 of NACE SP 0169 when determining the adequacy of cathodic protection on its pipeline system.

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. § 195.571 by failing to comply with the applicable criteria and other considerations for cathodic protection contained in paragraph 6.2 of NACE SP 0169.

Item 5: The Notice alleged that Respondent violated 49 C.F.R. § 195.573(a), which states in relevant part:

§ 195.573 What must I do to monitor external corrosion control?

(a) *Protected pipelines.* You must do the following to determine whether cathodic protection required by this subpart complies with §195.571:

(1)

(2) Identify not more than 2 years after cathodic protection is installed, the circumstances in which a close-interval survey or comparable technology is practicable and necessary to accomplish the objectives of paragraph 10.1.1.3 of NACE SP 0169 (incorporated by reference, *see* §195.3).

The Notice alleged that Respondent violated 49 C.F.R. § 195.573(a) by failing to identify the circumstances in which a close-interval survey or comparable technology was practicable and necessary to accomplish the objectives of paragraph 10.1.1.3 of NACE SP 0169. Specifically, the Notice alleged that Trinity had never completed an interrupted survey or a close-interval survey on its cathodically protected pipeline, and, therefore, that Trinity had failed to identify, within the allotted two-year interval, the procedures necessary to accomplish the objectives of

paragraph 10.1.1.3 of NACE SP 0169.

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. § 195.573(a) by failing to identify the circumstances in which a close-interval survey or comparable technology was practicable and necessary to accomplish the objectives of paragraph 10.1.1.3 of NACE SP 0169, not more than two years after cathodic protection was installed on its pipeline system.

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, 2, 4, and 5 in the Notice for violations of 49 C.F.R. §§ 195.402(a), 195.402(a), 195.571, and 195.573(a), respectively. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas 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 taken the following actions to address one of the cited violations:

1. With respect to the violation of § 195.402(a) (**Item 2**), Respondent has ensured that its employees who are involved in corrosion control have successfully completed the training specified in its written procedures. Respondent has provided documentation that its Senior Pipeline Operator successfully completed NACE CP1 – Cathodic Protection Tester certification in January 2013.

Accordingly, I find that compliance has been achieved with respect to this violation. Therefore, the compliance terms proposed in the Notice for Item 2 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 § 195.402(a) (**Item 1**), Respondent must submit a plan to remove the improperly installed clock spring and remediate the defect.
2. With respect to the violation of § 195.571 (**Item 4**), Respondent must develop a process for consideration of voltage drop and implement that process. Trinity must provide PHMSA with the process and the results of the implementation.
3. With respect to the violation of § 195.573(a) (**Item 5**), Respondent must identify the circumstances in which a close-interval survey or comparable technology is practicable and necessary to accomplish the objectives of paragraph 10.1.1.3 of NACE SP 0169 and conduct a close-interval survey or use comparable technology as practicable and necessary.

4. Respondent must submit plans required by these items within 30 days of receipt of this Final Order and must implement all corrective actions required by this Compliance Order within 90 days of receipt of this Final Order.
5. PHMSA requests that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. PHMSA requests that Respondent report these costs in two categories: (1) total cost associated with preparation and 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 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 3, the Notice alleged a probable violation 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. § 195.442(c) (**Item 3**) — Respondent's alleged failure to properly locate and mark its buried CO₂ pipeline in the area of excavation activity.

Trinity presented information in its Response showing that it had taken certain actions to address the cited item. If OPS finds a violation of this provision in a subsequent inspection, Respondent may be subject to future enforcement action.

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