



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue SE
Washington, DC 20590

NOV 15 2016

Mr. Lynn L. Bourdon III
Chairman, President and Chief Executive Officer
American Midstream Partners, LP
1400 16th Street, Suite 310
Denver, CO 80202

Re: CPF No. 4-2015-1007

Dear Mr. Bourdon:

Enclosed please find the Final Order issued in the above-referenced case. It makes one finding of violation, assesses a civil penalty of \$17,300, and specifies actions that need to be taken by American 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, 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,

Alan K. Mayberry
Acting Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Rodrick M. Seeley, Director, Southwest Region, OPS
Mr. Ryan M. Newburn, Vice President and Assistant General Counsel, American
Midstream Partners, LP

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)

American Midstream Partners, LP,)

Respondent.)
_____)

CPF No. 4-2015-1007

FINAL ORDER

On June 16-23, 2014, 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 American Midstream Partners, LP (American Midstream or Respondent) in Houston, Texas. American Midstream operates approximately 2,300 miles of pipeline and pipeline facilities that gather and transport natural gas and link producers and suppliers to natural gas markets.¹ American Midstream also owns approximately 1.7 million barrels of storage capacity across four terminals.²

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated April 20, 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 American Midstream had violated 49 C.F.R. § 192.631, and proposed assessing a civil penalty of \$17,300 for the alleged violation. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violation.

American Midstream was granted a 30-day extension to respond to the Notice and responded by letter dated June 26, 2015 (Response). The company contested the allegation, offered an explanation in response to the Notice, and requested that the proposed civil penalty be reduced. Respondent did not request a hearing and therefore has waived its right to one.

FINDING OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 192, as follows:

¹ Pipeline Safety Violation Report (Violation Report), (April 20, 2015) (on file with PHMSA), at 1.

² *Id.*

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.631(j)(1), which states:

§ 192.631 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. § 192.631(j)(1) by failing to provide records sufficient to demonstrate compliance with the requirements of § 192.631(c), (d), and (e).

The requirements of 49 C.F.R. § 192.631 are, in relevant part:

§ 192.631 Control room management

- (a)
- (c) *Provide adequate information.* Each operator must provide its controllers with the information, tools, processes and procedures necessary for the controllers to carry out the roles and responsibilities the operator has defined by performing each of the following:
 - (1) . . .
 - (2) Conduct a point-to-point verification between 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;
 - (3) Test and verify an internal communication plan to provide adequate means for manual operation of the pipeline safely, at least once each calendar year, but at intervals not to exceed 15 months;
 - (4) Test any backup SCADA systems at least once each calendar year, but at intervals not to exceed 15 months . . .
- (d) *Fatigue mitigation.* Each operator must implement the following methods to reduce the risk associated with controller fatigue that could inhibit a controller's ability to carry out the roles and responsibilities the operator has defined:
 - (1) . . .
 - (3) Train controllers and supervisors to recognize the effects of fatigue . . .
- (e) *Alarm management.* Each operator using a SCADA system must have a written alarm management plan to provide for effective controller response to alarms. An operator's plan must include provisions to:
 - (1) . . .
 - (4) Review the alarm management plan required by this paragraph at least once each calendar year, but at intervals not exceeding 15 months, to determine the effectiveness of the plan. . .

Specifically, the Notice alleged that American Midstream's procedures specify its records retention will be between three to five years. American Midstream was able to provide some

records for 2011 and few records for 2014. There were no records provided for the period between 2012 and 2013. PHMSA reviewed the records and found them insufficient to demonstrate compliance with the requirements of § 192.631(c), (d), and (e).

In its Response, American Midstream asserted that it understood the inspector's request to be limited to training records. Additionally, at the time of the inspection, American Midstream was in the process of revising its SCADA system, which impacted the type of documents that were available. Respondent stated that it provided hard copy documents for review that included documents from 2013, but also acknowledged that certain records were unavailable at the time of inspection.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.631(j) by failing to provide records sufficient to demonstrate compliance with the requirements of § 192.631(c), (d), and (e) in that there were systematic documentation and record retention issues indicated by the inspection. Moreover, Respondent admitted that records were missing.

This finding of violation will be considered a prior offense 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. 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 \$17,300 for the violation cited above.

Item 1: The Notice proposed a civil penalty of \$17,300 for Respondent's violation of 49 C.F.R. § 192.631(j)(1) for failing to provide records sufficient to demonstrate compliance with the requirements of § 192.631(c), (d), and (e). American Midstream requested that the proposed penalty be reduced based on a lower degree of culpability. American Midstream asserted that at the time of inspection, it provided documents for hard copy review, including documents from 2013. Respondent further asserted the 2013 documents contained sufficient information to meet the training requirements of 49 C.F.R. § 192.631(h); however, the Notice did not allege documentation was missing for demonstrating compliance with § 192.631(h). The 2013 records were not submitted with American Midstream's Response, but even if they had been found and submitted, there was still additional missing documentation. American Midstream also stated it understood the inspector's request to be limited to training records; however, the inspection

covered all aspects of the Control Room Management program and regulations. Respondent stated it was in the process of revising its SCADA system which impacted the type of documents that were available. Furthermore, American Midstream made several claims that relevant documents were available at the time of the inspection, but has not submitted any of those records. Even assuming those documents were submitted, Respondent admitted throughout its Response that certain issues affected its ability to maintain some records, exercises were not properly documented, and certain specific documentation may not have been maintained. These admissions demonstrate Respondent failed to take appropriate action to comply with a clearly applicable requirement. I therefore find reducing the proposed penalty based on American Midstream's level of culpability is not justified.

American Midstream stated that it has made several changes to ensure correct records are capable of being produced, are kept up to date, and are retained. While it is commendable that Respondent has taken these steps, good faith actions in consideration of reducing the proposed civil penalty are not those that take place after the violation. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$17,300 for violation of 49 C.F.R. § 192.631(j)(1).

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 **\$17,300**.

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, 6500 S MacArthur Blvd., Oklahoma City, Oklahoma 79169. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the \$17,300 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 violations of 49 C.F.R. § 192.631(j). 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. 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 § 192.631(j)(1) (**Item 1**), Respondent must:
 - A. Review the company's procedures and add specifics as to how they will maintain these records. The procedures should make reference to the forms to be used (with an appropriate numbering or naming system). The procedures should also specify who is responsible for completing and maintaining the documentation; and
 - B. Submit Item A no later than 60 days from the issuance of the Final Order in this case; and
 - C. Following the acceptance of Item A, Respondent should perform the appropriate activities and complete the documentation to demonstrate compliance with § 192.631 and forward the appropriate records to PHMSA; and
 - D. Submit Item C no later than 180 days from the issuance of the Final Order in this case.

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.

In addition, pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is requested (not mandated) to take the following action:

American Midstream should maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Mr. Rodrick M. Seeley, Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration. 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 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 has a right to submit a Petition for Reconsideration of this Final Order. The petition must be sent to: 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. PHMSA will accept petitions received no later than 20 days after receipt of service of this Final Order by the Respondent, provided they 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. Unless the Associate Administrator, upon request, grants a stay, all

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



Alan K. Mayberry
Acting Associate Administrator
for Pipeline Safety

NOV 15 2016

Date Issued