

December 27, 2016

Mr. Larry Alexander
President
Crimson Gulf, LLC
263 Trinity Lane
Gray, LA 70359

Re: CPF No. 4-2016-5007

Dear Mr. Alexander:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violations, assesses a civil penalty of \$49,300, and specifies actions that need to be taken by Crimson Gulf, LLC 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,
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. R.M. Seeley, Director, Southwest Region, OPS

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)	
)	
Crimson Gulf, LLC,)	CPF No. 4-2016-5007
)	
Respondent.)	
)	

FINAL ORDER

From March 2015 through July 2015, 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 Crimson Gulf, LLC (Crimson or Respondent) in Houma, Louisiana and in Crimson’s Delta offshore pipeline system. Respondent, an affiliate of Crimson Pipeline, LLC, is engaged in the transportation of crude oil through approximately 500 miles of pipeline.¹

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated April 4, 2016, 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 Crimson had committed various violations of 49 C.F.R. Part 195 and proposed assessing a civil penalty of \$49,300 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations.²

Respondent failed to respond within 30 days of receipt of service of the Notice. Under 49 C.F.R. § 190.209(c), such failure to respond constitutes a waiver of Crimson’s right to contest the allegations in the Notice and authorizes the Associate Administrator, without further notice, to find facts as alleged in the Notice and to issue this Final Order under § 190.213. In this case, the Notice was mailed to Respondent by certified mail (USPS Article No. 9590940303045155018023) on April 7, 2016, and was received by Respondent on April 11, 2016, as shown by the return receipt on file with PHMSA. To date, Respondent has not acknowledged or responded to the Notice. Under such circumstances, I find it reasonable and

¹ Crimson Gulf, LLC, website, available at <http://www.crimsonpl.com/gulf/index.htm#> (last accessed September 19, 2016).

² The Notice was issued in conjunction with a separate Notice of Amendment (CPF No. 4-2016-5008M). An Order Directing Amendment in that case is being issued separately.

appropriate to enter this Final Order without further proceedings.³

FINDINGS OF VIOLATION

Crimson 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. § 195.55(a)(2), which states:

§ 195.55 Reporting safety-related conditions.

(a) Except as provided in paragraph (b) of this section, each operator shall report in accordance with §195.56 the existence of any of the following safety-related conditions involving pipelines in service:

.....
(2) Unintended movement or abnormal loading of a pipeline by environmental causes, such as an earthquake, landslide, or flood, that impairs its serviceability.

The Notice alleged that Respondent violated 49 C.F.R. § 195.55(a)(2) by failing to report the existence of a safety-related condition due to unintended movement of Crimson's 12-inch offshore Pompano Pipeline (Pompano Pipeline). Specifically, the Notice alleged that Crimson failed to report the safety-related condition that occurred after erosion caused the Pompano Pipeline to sink. As a result of the erosion, a portion of the Pompano Pipeline was suspended without adequate support. On January 24, 2013, Respondent performed an underwater inspection of the Pompano Pipeline, which indicated that the pipeline was at a water depth of ten feet. On May 23, 2014, Respondent performed another underwater inspection, which indicated that the pipeline was at a depth of 15 feet and, accordingly, had been subject to unintended movement. Respondent did not report the safety-related condition. 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. § 195.55(a)(2) by failing to report a safety-related condition: the sinking of the Pompano Pipeline.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.57 (2015),⁴ which states in relevant part:

§ 195.57 Filing offshore pipeline condition reports.

(a) Each operator shall, within 60 days after completion of the

³ In the Matter of Tampa Pipeline Corp., Final Order (CPF No. 2-2008-6002) (Apr. 26, 2010), 2010 WL 6531627, (D.O.T.); see also, In the Matter of Tampa Bay Pipeline Corp., Final Order (CPF No. 2-2005-6012 (Dec. 1, 2006), 2008 WL 902910) (D.O.T.). PHMSA final orders are generally accessible on the agency's website, available at <http://primis.phmsa.dot.gov/comm/reports/enforce/Actions>.

⁴ 49 C.F.R. § 195.57 was in effect at the time Respondent completed its underwater pipeline inspections and during PHMSA's inspection. Part 195 was subsequently amended, effective October 1, 2015, removing § 195.57. 80 Fed. Reg. 12762, 12780 (March 11, 2015).

inspection of all its underwater pipelines subject to § 195.413(a), report the following information:

- (1) Name and principal address of operator.
- (2) Date of report.
- (3) Name, job title, and business telephone number of person submitting the report.
- (4) Total number of miles (kilometers) of pipeline inspected.
- (5) Length and date of installation of each exposed pipeline segment, and location; including, if available, the location according to the Minerals Management Service or state offshore area and block number tract.
- (6) Length and date of installation of each pipeline segment, if different from a pipeline segment identified under paragraph (a)(5) of this section, that is a hazard to navigation, and the location; including, if available, the location according to the Minerals Management Service or state offshore area and block number tract.

The Notice alleged that Respondent violated 49 C.F.R. § 195.57 (2015) by failing to file offshore pipeline condition reports within 60 days after completion of the pipeline inspections. Specifically, the Notice alleged that Crimson performed three underwater inspections of its Pompano Pipeline on January 24, 2013, May 23, 2014, and June 5, 2014. Crimson failed to file offshore condition reports to PHMSA within 60 days of completing the three inspections. 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. § 195.57 (2015) by failing to file offshore pipeline condition reports within 60 days after completion of three pipeline inspections.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.402, which states in relevant part:

§ 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. . . .

. . . .

(c) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:

. . . .

(13) Periodically reviewing the work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found.

The Notice alleged that Respondent violated 49 C.F.R. § 195.402 by failing to prepare and follow written procedures for periodically reviewing the work done by Crimson's personnel to determine the effectiveness of the procedures used in normal operation and maintenance and

taking corrective action where deficiencies are found. Specifically, the Notice alleged that, during its inspection of Crimson, PHMSA requested a copy of the procedure that Crimson was required to maintain under 49 C.F.R. § 195.402(c)(13). Crimson informed PHMSA that no such procedure existed. 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 by failing to prepare and follow written procedures for periodically reviewing the work done by Crimson's personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found.

Item 5: The Notice alleged that Respondent violated 49 C.F.R. § 195.413(c)(3), which states:

§ 195.413 Underwater inspection and reburial of pipelines in the Gulf of Mexico and its inlets.

(a)

(c) If an operator discovers that its pipeline is an exposed underwater pipeline or poses a hazard to navigation, the operator shall—

(3) Within 6 months after discovery, or not later than November 1 of the following year if the 6 month period is later than November 1 of the year of discovery, bury the pipeline so that the top of the pipe is 36 inches (914 millimeters) below the underwater natural bottom (as determined by recognized and generally accepted practices) for normal excavation or 18 inches (457 millimeters) for rock excavation.

The Notice alleged that Respondent violated 49 C.F.R. § 195.413(c)(3) on two separate occasions by failing to place its Pompano Pipeline so that the top of the pipeline is 36 inches below the underwater natural bottom within six months of discovering that the Pompano Pipeline was exposed underwater. Specifically, the Notice alleged that Crimson performed an underwater inspection of the Pompano Pipeline on January 24, 2013. The inspection indicated that the pipeline was exposed underwater at less than 15 feet in depth at four points. On May 23, 2014, and June 5, 2014, Crimson performed further underwater inspections of the Pompano Pipeline. The later inspections also indicated that the pipeline was exposed and suspended without adequate support, and indicated that the pipeline had undergone unintended movement that could adversely affect safe operation. PHMSA requested, and Crimson failed to provide, documentation indicating that the underwater exposures, unsupported suspension, and unintended movement were corrected pursuant to 49 C.F.R. § 195.413. 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. § 195.413(c)(3) on two separate occasions by failing to place its Pompano Pipeline so that the top of the pipeline is 36 inches below the underwater natural bottom within six months of discovering that the Pompano Pipeline was exposed underwater.

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. 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 \$49,300 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$30,400 for Respondent's violation of 49 C.F.R. § 195.55(a)(2), for failing to report the existence of a safety-related condition due to unintended movement of Crimson's Pompano Pipeline. Crimson neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$30,400 for violation of 49 C.F.R. § 195.55(a)(2).

Item 2: The Notice proposed a civil penalty of \$18,900 for Respondent's violation of 49 C.F.R. § 195.57 (2015), for failing to file offshore pipeline condition reports within 60 days after completion of pipeline inspections on the Pompano Pipeline. Crimson neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$18,900 for violation of 49 C.F.R. § 195.57 (2015).

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 **\$49,300**.

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, Mike Monroney Aeronautical Center, 6500 S Macarthur Blvd, Oklahoma City, OK 79169. The Financial Operations Division telephone number is (405) 954-8845.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1, 2, 3, and 5 in the Notice for violations of 49 C.F.R. §§ 195.55, 195.57 (2015), 195.402, and 195.413(c)(3), respectively. Pursuant to the removal of 49 C.F.R. § 195.57, effective October 1, 2015, the compliance order addressing Item 2 is hereby withdrawn. 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 49 C.F.R. § 195.55(a)(2) (**Item 1**), Respondent must file a report with PHMSA documenting the existence of a safety-related condition due to unintended movement of Crimson's Pompano Pipeline, must correct the unsafe conditions created by the suspension of a portion of the pipeline without support, and must perform an underwater inspection of the Pompano Pipeline to ensure the continued safe operation of the pipeline. Respondent must provide documentation to PHMSA demonstrating completion of the corrective actions and a report detailing the results of the underwater inspection.
2. With respect to the violation of 49 C.F.R. § 195.402 (**Item 3**), Respondent must develop and implement written procedures for periodically reviewing the work done by Crimson's personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found.
3. With respect to the violation of 49 C.F.R. § 195.413(c)(3) (**Item 5**), Respondent must file documentation with PHMSA indicating that the underwater exposures, unsupported suspension, and unintended movement of the Pompano Pipeline were corrected pursuant to 49 C.F.R. § 195.413. Respondent must correct the unsafe conditions created by the underwater exposures, unsupported suspension, and unintended movement, and must perform an underwater inspection of the Pompano Pipeline to ensure the continued safe operation of the pipeline. Respondent must provide documentation to PHMSA demonstrating completion of the corrective actions and a report detailing the results of the underwater inspection.
4. Respondent must complete the required actions within 30 days of this Final Order.

It is requested (not mandated) that Crimson Gulf maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to R.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.

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 Compliance 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.

WARNING ITEM

With respect to Item 4, the Notice alleged probable violations of 49 C.F.R. § 195.413(c)(1), 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. § 195.413(c)(1) (**Item 4**) — Respondent's failure to notify the National Response Center within 24 hours of discovering that Crimson's Pompano Pipeline was exposed underwater.

If OPS finds a violation of this provision in a subsequent inspection, Respondent may be subject to future enforcement action.

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.

December 27, 2016

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued