

November 17, 2017

Mr. Terry K. Spencer
President and Chief Executive Officer
ONEOK, Inc.
100 West Fifth Street
Tulsa, OK 74103

Re: CPF No. 4-2017-1006

Dear Mr. Spencer:

Enclosed please find the Final Order issued in the above-referenced case to your subsidiary, OkTex Pipeline Company, LLC. It makes findings of violation, assesses a civil penalty of \$145,000, and specifies actions that need to be taken by OkTex Pipeline to comply with the pipeline safety regulations. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated May 19, 2017. 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 effective upon the date of mailing 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: Director, Southwest Region, Office of Pipeline Safety, PHMSA
Mr. Wes Dunbar, Vice President Operations, ONEOK, Inc.

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

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In the Matter of)	
)	
OkTex Pipeline Company, LLC,)	CPF No. 4-2017-1006
a subsidiary of ONEOK, Inc.,)	
)	
Respondent.)	
)	

FINAL ORDER

From May through October, 2016, 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 OkTex Pipeline Company, LLC (OkTex or Respondent), a subsidiary of ONEOK, Inc. (ONEOK),¹ OkTex operates natural gas pipelines in Oklahoma and Texas, with interconnections to pipelines in New Mexico and Mexico.²

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated April 10, 2017, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice), which also included warnings pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that OkTex had committed three violations of 49 C.F.R. Part 192 and proposed assessing a civil penalty of \$145,000 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.

ONEOK, on behalf of OkTex, responded to the Notice by letter dated May 18, 2017 (Response). The company did not contest the allegations of violation, paid the proposed civil penalty of \$145,000, and agreed to complete the proposed compliance actions. In accordance with 49 C.F.R. § 190.208(a)(1), such payment authorizes the Associate Administrator to make

¹ OkTex is owned by ONEOK Partners, LP. See OkTex Pipeline Company, LLC, website, available at <http://okt.oneokpartners.com/About> (last accessed August 9, 2017). However, as of June 30, 2017, ONEOK Partners, LP, was acquired by ONEOK, Inc. See ONEOK, Inc. website, available at <http://ir.oneok.com/news-and-events/press-releases/2017/06-30-2017-211557242> (last accessed August 9, 2017).

² See OkTex Pipeline, LLC, website, available at <http://okt.oneokpartners.com/About> and <http://okt.oneokpartners.com/~media/NGP/OKT/SystemMap/OKTSystemMap.ashx> (last accessed August 9, 2017).

findings of violation and to issue this final order. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

In its Response, Respondent did not contest the allegations in the Notice that it violated 49 C.F.R. Part 192, as follows:

Item 6: The Notice alleged that Respondent violated 49 C.F.R. § 192.937(b), which states:

§ 192.937 What is a continual process of evaluation and assessment to maintain a pipeline's integrity?

(a) *General.* After completing the baseline integrity assessment of a covered segment, an operator must continue to assess the line pipe of that segment at the intervals specified in § 192.939 and periodically evaluate the integrity of each covered pipeline segment as provided in paragraph (b) of this section

(b) *Evaluation.* An operator must conduct a periodic evaluation as frequently as needed to assure the integrity of each covered segment. The periodic evaluation must be based on a data integration and risk assessment of the entire pipeline as specified in § 192.917. For plastic transmission pipelines, the periodic evaluation is based on the threat analysis specified in [§] 192.917(d). For all other transmission pipelines, the evaluation must consider the past and present integrity assessment results, data integration and risk assessment information (§ 192.917), and decisions about remediation (§ 192.933) and additional preventive and mitigative actions (§ 192.935). An operator must use the results from this evaluation to identify the threats specific to each covered segment and the risk represented by these threats.

The Notice alleged that Respondent violated 49 C.F.R. § 192.937(b) by failing to perform a periodic evaluation on its Norteno 1, Norteno 4, and Norteno 5 pipelines as frequently as needed to assure the integrity of each covered segment. OkTex performed baseline assessments of the three lines on July 19, November 6, and November 5, 2007, respectively. However, OkTex was unable to provide any documentation demonstrating that the company subsequently performed periodic evaluations of the three lines, as required under § 192.937(b).

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. § 192.937(b) by failing to perform periodic evaluations on three of its pipelines.

Item 7: The Notice alleged that Respondent violated 49 C.F.R. § 192.939(a), which states:

§ 192.939 What are the required reassessment intervals?

An operator must comply with the following requirements in

establishing the reassessment interval for the operator's covered pipeline segments.

(a) *Pipelines operating at or above 30% SMYS.* An operator must establish a reassessment interval for each covered segment operating at or above 30% SMYS in accordance with the requirements of this section. The maximum reassessment interval by an allowable reassessment method is seven years. . . .

The Notice alleged that Respondent violated 49 C.F.R. § 192.939(a) by failing to reassess a covered pipeline segment operating above 30 percent SMYS within the required reassessment interval of seven years. Specifically, the Notice alleged that OkTex failed to reassess the Norteno 1 pipeline, a covered pipeline system in OkTex's El Paso Unit operating above 30 percent SMYS. The Norteno 1 pipeline had previously been assessed on July 19, 2007, but not reassessed again until November 4, 2015. The reassessment should have been performed by July 2014. ONEOK's NGP IMP procedures require that, after completion of the baseline assessment on a covered segment, OkTex must continually monitor and reassess covered segments within seven years.

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. § 192.939(a) by failing to reassess a pipeline segment within the required reassessment interval.

Item 8: The Notice alleged that Respondent violated 49 C.F.R. § 192.939(b), which states:

§ 192.939 What are the required reassessment intervals?

An operator must comply with the following requirements in establishing the reassessment interval for the operator's covered pipeline segments.

(a)

(b) *Pipelines Operating Below 30% SMYS.* An operator must establish a reassessment interval for each covered segment operating below 30% SMYS in accordance with the requirements of this section. The maximum reassessment interval by an allowable reassessment method is seven years

The Notice alleged that Respondent violated 49 C.F.R. § 192.939(b) by failing to reassess two covered pipeline segments operating below 30 percent SMYS within the required reassessment interval of seven years. Specifically, the Notice alleged that OkTex failed to reassess the Norteno 4 and Norteno 5 pipelines, covered pipeline systems in OkTex's El Paso Unit operating below 30 percent SMYS. The two pipelines had previously been assessed on November 6 and November 5, 2007, respectively. The reassessments of both the Norteno 4 and Norteno 5 pipelines should have been performed by November 2014. Neither pipeline had been reassessed as of the date of PHMSA's 2016 inspection.

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. § 192.939(b) by failing to reassess two

pipeline segments within the required reassessment interval.

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; 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 \$145,000 for the violations cited above.

Item 6: The Notice proposed a civil penalty of \$53,500 for Respondent's violation of 49 C.F.R. § 192.937(b), for failing to perform periodic evaluations on three of its pipelines. OkTex 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 \$53,500 for violation of 49 C.F.R. § 192.937(b).

Item 7: The Notice proposed a civil penalty of \$43,200 for Respondent's violation of 49 C.F.R. § 192.939(a), for failing to reassess a pipeline segment within the required reassessment interval. OkTex 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 \$43,200 for violation of 49 C.F.R. § 192.939(a).

Item 8: The Notice proposed a civil penalty of \$48,300 for Respondent's violation of 49 C.F.R. § 192.939(b), for failing to reassess two pipeline segments within the required reassessment interval. OkTex 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 \$48,300 for violation of 49 C.F.R. § 192.939(b).

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 **\$145,000**. Payment of this penalty was received by PHMSA on May 19, 2017.

³ These amounts are adjusted annually for inflation. *See, e.g.*, Pipeline Safety: Inflation Adjustment of Maximum Civil Penalties, 82 Fed. Reg. 19325 (April 27, 2017).

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 6 and 8 in the Notice for violations of 49 C.F.R. §§ 192.937(b) and 192.939(b), 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. 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 § 192.937(b) (**Item 6**), Respondent must conduct evaluations and assessments of its facilities, as required by 49 C.F.R. § 192.937, within 90 days of receipt of this Order. Respondent must provide a copy of the evaluation results to PHMSA.
2. With respect to the violation of § 192.939(b) (**Item 8**), Respondent must conduct reassessments of its facilities as required by 49 C.F.R. § 192.939, within 90 days of receipt of this Order. Respondent must provide a copy of the reassessment results to PHMSA.

It is requested that OkTex maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the 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 Order may result in the 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 1, 2, 3, 4, and 5, the Notice alleged probable violations of Part 192 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 192.605(a) **(Item 1)** — Respondent’s alleged failure to follow ONEOK procedures for documenting the annual review of OkTex’s Emergency Plan;

49 C.F.R. § 192.615(b)(2) **(Item 2)** — Respondent’s alleged failure to follow ONEOK procedures for documenting emergency response training;

49 C.F.R. § 192.709 **(Item 3)** — Respondent’s alleged failure to maintain records of a repair by accurately completing the Pipeline Inspection Program and Evaluation form in accordance with ONEOK procedures;

49 C.F.R. § 192.911(l) **(Item 4)** — Respondent’s alleged failure to have and follow a quality assurance process for its integrity management program (IMP) by conducting an annual IMP audit in accordance with ONEOK procedures; and

49 C.F.R. § 192.917(b) **(Item 5)** — Respondent’s alleged failure to demonstrate that data was gathered and evaluated to identify potential threats to a covered pipeline segment, in accordance with ASME B31.8S, Section 4.

OkTex presented information in its Response showing that it is taking certain actions to address the cited items. If OPS finds a violation of any of these items 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.

November 17, 2017

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued