

July 12, 2019

Mr. Gary R. Heminger  
Chairman and Chief Executive Officer  
Marathon Petroleum Corporation  
539 South Main Street  
Findlay, Ohio 45840

**Re: CPF No. 4-2018-5014**

Dear Mr. Heminger:

Enclosed please find the Final Order issued in the above-referenced case to your subsidiary, Western Refining Pipeline, LLC (Western). It makes a finding of violation and assesses a civil penalty of \$50,100. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated March 27, 2019. It also finds that Western has completed the actions specified in the Notice to comply with the pipeline safety regulations. Therefore, this case is now 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: Ms. Mary McDaniel, Director, Southwest Region, Office of Pipeline Safety, PHMSA  
Mr. Stoney Vining, Senior Counsel, Andeavor Logistics, LP, 19100 Ridgewood  
Parkway, San Antonio, Texas 78259  
Mr. Aaron W. Martinez, Director, Compliance-Logistics, Andeavor Logistics, LP, 19100  
Ridgewood Parkway, San Antonio, Texas 78259

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** )

**Western Refining Pipeline, LLC,** )  
**a subsidiary of Marathon Petroleum Corp.,** )

**Respondent.** )

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**CPF No. 4-2018-5014**

**FINAL ORDER**

From March 7 through September 28, 2017, pursuant to 49 U.S.C. § 60117, representatives 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 Western Refining Pipeline, LLC (Western or Respondent) in Texas and New Mexico. Western was acquired by Tesoro Corporation on June 1, 2018, and the two companies combined to become Andeavor Logistics, LP (Andeavor),<sup>1</sup> which is owned by Marathon Petroleum Corporation (Marathon).<sup>2</sup> Western operates the Texas-New Mexico and Bisti Station-Gallup Pipeline systems.

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated July 20, 2018, 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 Western had violated 49 C.F.R. § 195.452(g) and proposed assessing a civil penalty of \$50,100 for the alleged violation. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violation.

Andeavor, on behalf of Western, responded to the Notice by letter dated August 24, 2018 (Response). The company did not contest the allegation of violation but provided an explanation of its actions, requested that the proposed civil penalty be reduced, and requested additional time to comply with the proposed compliance order. Respondent did not request a hearing and therefore has waived its right to one.

Through a wire transfer dated March 27, 2019, Andeavor paid the proposed civil penalty of \$50,100. In accordance with 49 C.F.R. § 190.208(a)(1), such payment authorizes the Associate

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<sup>1</sup> Western Refining Pipeline, LLC website, available at <https://jobs.wnr.com/> (last accessed May 24, 2019).

<sup>2</sup> Andeavor Logistics, LP website, available at <http://www.andeavor.com/#> (last accessed May 24, 2019).

Administrator to make a finding of violation and to issue this final order without further proceedings.

### **FINDING OF VIOLATION**

In its Response, Andeavor did not contest the allegation 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. § 195.452(g), which states:

**§ 195.452 Pipeline integrity management in high consequence areas.**

(a) . . . .

(g) *What is an information analysis?* In periodically evaluating the integrity of each pipeline segment (paragraph (j) of this section), an operator must analyze all available information about the integrity of the entire pipeline and the consequences of a failure. This information includes:

(1) Information critical to determining the potential for, and preventing, damage due to excavation, including current and planned damage prevention activities, and development or planned development along the pipeline segment;

(2) Data gathered through the integrity assessment required under this section;

(3) Data gathered in conjunction with other inspections, tests, surveillance and patrols required by this Part, including, corrosion control monitoring and cathodic protection surveys; and

(4) Information about how a failure would affect the high consequence area, such as location of the water intake.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(g) by failing to demonstrate that the company had sufficiently evaluated the integrity of its pipeline system and the consequences of failure on high-consequence areas (HCAs). Specifically, the Notice alleged that Western failed to analyze all available information concerning the integrity of its entire pipeline and the consequences of a failure, including a failure to: integrate all relevant threats such as third-party damage; account for changes in physical characteristics or operating conditions of different pipeline segments; and provide a risk-comparison study showing how threats had been mitigated or eliminated after the company employed preventative and mitigative measures.

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. § 195.452(g) by failing to analyze all available information about the integrity of the entire pipeline and the consequences of failure on HCAs.

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.<sup>3</sup> 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; 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 \$50,100 for the violation cited above.

**Item 1:** The Notice proposed a civil penalty of \$50,100 for Respondent's violation of 49 C.F.R. § 195.452(g), for failing to analyze all available information about the integrity of the entire pipeline and the consequences of failure on HCAs. Respondent initially requested a reduction in the amount of the civil penalty in its Response, arguing that Western did conduct an analysis under 49 C.F.R. § 195.452(g) and explaining that Andeavor did not have any prior relationship with Western prior to its recent acquisition of the company. Respondent offered no evidence that documented Western's alleged information analysis was conducted prior to PHMSA's inspection. Further, the fact that Andeavor acquired Western after PHMSA's inspection does not absolve either entity from culpability for violations of the Pipeline Safety Regulations. Respondent subsequently paid the civil penalty in full, which serves to withdraw its request for penalty reduction pursuant to 49 C.F.R. § 190.208.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of **\$50,100** for violation of 49 C.F.R. § 195.452(g), which amount was paid in full by wire transfer on March 27, 2019.

### **COMPLIANCE ORDER**

The Notice proposed a compliance order with respect to Item 1 in the Notice for violation of 49 C.F.R. § 195.452(g). 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. The Director indicates that Respondent has taken the following actions specified in the proposed compliance order:

1. With respect to the violation of § 195.452(g) (**Item 1**), Respondent has provided documentation sufficient to demonstrate that a comprehensive analysis of all information concerning the integrity of its pipeline system and the consequences of a

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<sup>3</sup> These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223; Revisions to Civil Penalty Amounts, 83 Fed. Reg. 60732, 60744 (Nov. 27, 2018).

failure was thoroughly performed after PHMSA's inspection.

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.

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

July 12, 2019

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Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

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Date Issued