

**NOTICE OF PROBABLE VIOLATION
PROPOSED CIVIL PENALTY
and
PROPOSED COMPLIANCE ORDER**

ELECTRONIC MAIL - RETURN RECEIPT REQUESTED

February 11, 2022

Kurt Cheramie
Senior Vice President
Kinetica Deepwater Express, LLC
1001 McKinney St.
Houston, Texas 77002

CPF 4-2022-007-NOPV

Dear Mr. Cheramie:

From July 21, 2021 through October 18, 2021, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected Kinetica Deepwater Express, LLC's (Kinetica) repair records following an incident that occurred on July 13, 2021, on its Pipeline ID 341, El Paso Platform 327-A in Eugene Island, Louisiana.

As a result of the inspection, it is alleged that Kinetica has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

1. **§ 191.15 Transmission Systems; gathering systems; liquefied natural gas facilities; and underground natural gas storage facilities: Incident report.**

(a) *Transmission or Gathering.* Each operator of a transmission or a gathering pipeline system must submit DOT Form PHMSA F 7100.2 as soon as practicable but not more than 30 days after detection of an incident required to be reported under § 191.5 of this part.

Kinetica failed to submit DOT Form PHMSA F 7100.2 (incident report) as soon as practicable, but not more than 30 days after detection, of a reportable incident involving its 6-inch 341 pipeline on the Eugene Island - 327A platform. On July 13, 2021, pipeline 341 experienced a pinhole leak which resulted in the release of natural gas. Kinetica has not filed the incident report as required by § 191.15.

2. **§ 191.17 Transmission systems; gathering systems; liquefied natural gas facilities; and underground natural gas storage facilities: Annual report.**

(a) *Transmission or Gathering.* Each operator of a transmission or a gathering pipeline system must submit an annual report for that system on DOT Form PHMSA 7100.2.1. This report must be submitted each year, not later than March 15, for the preceding calendar year, except that for the 2010 reporting year the report must be submitted by June 15, 2011.

Kinetica failed to submit complete and accurate annual reports using DOT Form PHMSA 7100-2.1 for five consecutive years. Kinetica's annual reports for calendar years 2016, 2017, 2018, 2019, and 2020, do not include mileage for pipelines acquired from ANR Pipeline Company on April 1, 2016. The mileage associated with the acquisition of the ANR Pipeline Company facilities is required to be reported on Kinetica's 2016 Annual Report, and all subsequent annual reports as long as the pipeline is operated/retained by Kinetica.

3. **§ 191.22 National Registry of Operators.**

(a) . . .

(c) *Changes.* Each operator of a gas pipeline, gas pipeline facility, UNGSF, LNG plant, or LNG facility must notify PHMSA electronically through the National Registry of Operators at <https://portal.phmsa.dot.gov> of certain events.

(1) . . .

(2) An operator must notify PHMSA of any of the following events not later than 60 days after the event occurs:

(i) . . .

(iv) The acquisition or divestiture of 50 or more miles of a pipeline or pipeline system subject to part 192 of this subchapter;

Kinetica failed to file a Type D acquisition notification through the National Registry of Operators for the acquisition of approximately 515 miles of gas transmission pipelines from ANR Pipeline Company no later than 60 days following acquisition in accordance with § 191.22(c)(2)(iv). Kinetica acquired gas transmission assets from ANR Pipeline Company on April 1, 2016, and did not provide notice to PHMSA's National Registry of Operators until December 2, 2021, which is 2,010 days beyond the 60-day notification period as required by § 191.22.

4. **§ 191.29 National Pipeline Mapping System.**

(a) Each operator of a gas transmission pipeline or liquefied natural gas facility must provide the following geospatial data to PHMSA for that pipeline or facility:

(1) Geospatial data, attributes, metadata and transmittal letter appropriate for use in the National Pipeline Mapping System. Acceptable formats and additional information are specified in the NPMS Operator Standards Manual available at www.npms.phmsa.dot.gov or by contacting the PHMSA Geographic Information Systems Manager at (202) 366-4595.

(b) The information required in paragraph (a) of this section must be submitted each year, on or before March 15, representing assets as of December 31 of the previous year. If no changes have occurred since the previous year's submission, the operator must comply with the guidance provided in the NPMS Operator Standards manual available at www.npms.phmsa.dot.gov or contact the PHMSA Geographic Information Systems Manager at (202) 366-4595.

Kinetica failed to submit complete and accurate National Pipeline Mapping System (NPMS) information required by § 191.29(a) on or before March 15 representing its assets as of December 31 of the previous year.

Specifically, on April 1, 2016, Kinetica acquired from ANR Pipeline Company approximately 470.7 miles of offshore pipeline assets located in the Gulf of Mexico, and approximately 44.52 miles of onshore pipeline assets, including the Patterson Liquid Terminal, Grand Chenier Liquid Handling Facility, and liquid handline portions of the Patterson Compressor Station, in St. Mary Parish, Louisiana. Since the 2016 acquisition, Kinetica has not submitted updates to NPMS to account for these assets.

5. **§ 192.717 Transmission lines: Permanent field repair of leaks.**

Each permanent field repair of a leak on a transmission line must be made by-

(a) Removing the leak by cutting out and replacing a cylindrical piece of pipe; or

(b) Repairing the leak by one of the following methods:

(1) Install a full encirclement welded split sleeve of appropriate design, unless the transmission line is joined by mechanical couplings and operates at less than 40 percent of SMYS.

(2) If the leak is due to a corrosion pit, install a properly designed bolt-on-leak clamp.

(3) If the leak is due to a corrosion pit and on pipe of not more than 40,000 psi (267 Mpa) SMYS, fillet weld over the pitted area a steel plate patch with rounded corners, of the same or greater thickness than the pipe, and not more than one-half of the diameter of the pipe in size.

(4) If the leak is on a submerged offshore pipeline or submerged pipeline in inland navigable waters, mechanically apply a full encirclement split sleeve of

appropriate design.

(5) Apply a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe.

Kinetica failed to complete a permanent field repair of a leak in accordance with § 192.717 and its own written procedures. Specifically, on July 16, 2021, Kinetica repaired a through wall pinhole leak with a Belzona Superwrap II composite wrap documented as a “permanent” repair in its Pipeline Repair & Replacement Field Worksheet (Maximo Ticket Number 21-91661) and in its Pipeline Inspection Report (Repair Number: BBH-4482).

Kinetica’s written *Pipeline Operating Procedures Manual, Section 401 – Pipeline Repair, Table 401-2 Permanent Pipeline Repair Methods* (Revision Date: 7/20/2020) and its *Operations & Maintenance Procedures, 401-Pipeline Repair, Steel Pipelines Operated at a Pressure That Produces a Hoop Stress of 20% or More SMYS, 2. Leaks* (Date: 10/13/2018), states:

2. Leaks

a. Each permanent field repair of a leak on a transmission line must be made by:

- i. Cutting out and replacing a cylindrical piece of pipe; or
- ii. Repairing the leak by one of the following methods:

- 1. Install a full-encirclement welded split sleeve of appropriate design, unless the transmission line is joined by mechanical couplings and operates at less than 40% SMYS;
- 2. If the leak is due to a corrosion pit, install a properly designed bolt-on leak clamp, or other methods approved by Operations and Engineering;
- 3. If the leak is on a submerged offshore pipeline or submerged pipeline in inland navigable waters, mechanically apply a full encirclement split sleeve of appropriate design;
- 4. Apply a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe.

Kinetica’s *Pipeline Operating Procedures Manual, Section 401 – Pipeline Repair, Table 401-2 Permanent Pipeline Repair Methods* (Revision Date: 7/20/2020) addresses permanent repairs based on defect type. Kinetica’s written procedure and Table 401-2 do not allow for through wall leaks to be permanently repaired using composite wraps. Furthermore, § 192.717 does not allow for leaks to be repaired with composite wraps.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, Kinetica Deepwater Express, LLC is subject to a civil penalty not to exceed \$225,134 per violation per day the violation persists, up to a maximum of \$2,251,334 for a related series of violations. For violations occurring on or after January 11, 2021, and before May 3, 2021, the maximum penalty may not exceed \$222,504 per violation per day the violation persists, up to a maximum of \$2,225,034 for a related series of violations. For violations occurring on or after July 31, 2019, and before January 11, 2021, the maximum penalty may not exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violations occurring on or after November 27, 2018, and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violations occurring on or after November 2, 2015, and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of **\$46,600** as follows:

<u>Item number</u>	<u>PENALTY</u>
5	\$46,600

Warning Items

With respect to Item 3, we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to promptly correct this item. Failure to do so may result in additional enforcement action.

Proposed Compliance Order

With respect to Items 1, 2, 4, and 5 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Kinetica Deepwater Express, LLC. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement Proceedings*. Please refer to this document and note the response options. Be advised that all material you submit in response to this enforcement action is subject to being made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document, you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 4-2022-007-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Mary L. McDaniel, P.E.
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Enforcement Proceedings

PROPOSED COMPLIANCE ORDER

Pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Kinetica Deepwater Express, LLC, (Kinetica) a Compliance Order incorporating the following remedial requirements to ensure the compliance with pipeline safety regulations:

1. In regard to Item 1 of the Notice pertaining to Kinetica's failure to submit DOT Form PHMSA F 7100.2 (incident report) as soon as practicable, but not more than 30 days after detection, of a reportable incident involving its 6-inch 341 pipeline on platform Eugene Island - 327A, which occurred on July 13, 2021, Kinetica must submit an incident report as required by § 191.15(a) within 30 days following the receipt of a Final Order.
2. In regard to Item 2 of the Notice pertaining to Kinetica's failure to submit complete and accurate annual reports using DOT Form PHMSA 7100-2.1, Kinetica must amend its annual reports for calendar years 2016, 2017, 2018, 2019, and 2020 to reflect all of its pipelines for each calendar year, and must provide PHMSA Southwest Region a record of its updated submissions, within 30 days following the receipt of a Final Order.
3. In regard to Item 4 of the Notice pertaining to Kinetica's failure to submit complete and accurate National Pipeline Mapping System (NPMS) information, Kinetica must resubmit its calendar year (CY) 2020 NPMS submission to include assets acquired on April 1, 2016, from ANR, and provide PHMSA Southwest Region a complete and accurate record of the CY 2020 NPMS submission, within 30 days following the receipt of a Final Order.
4. In regard to Item 5 of the Notice pertaining to Kinetica's failure to adhere to its Operations & Maintenance Procedures, Pipeline Operation Procedures Manual, and § 192.717 when permanently repairing leaks on its pipeline, Kinetica must permanently repair the leak on its Pipeline ID 341, El Paso Platform 327-A in Eugene Island, Louisiana in compliance with its own procedures and § 192.717. Additionally, Kinetica must review previous repairs made to its pipeline systems jurisdictional to 49 CFR Part 192, determine if any permanent repairs completed using the Belzona composite wraps remain, and provide a list of those repairs identified along with its plans for remedial action to PHMSA Southwest Region. These actions must be completed within 30 days following the receipt of a Final Order and Kinetica must provide PHMSA Southwest Region with documentation verifying completion.

It is requested (not mandated) that Kinetica maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Mary L. McDaniel, P.E., Director, Southwest Region, PHMSA. 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.