

MAR 23 2012

Mr. Ian Anderson
President
Kinder Morgan Pipelines (USA), Inc.
5th Avenue SW
Suite 2700 - 300
Calgary, Canada
T2P – 5J2

Re: CPF No. 5-2011-5005

Dear Mr. Anderson:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and specifies actions that need to be taken by Kinder Morgan Pipelines (USA), Inc., to comply with the pipeline safety regulations. When the terms of the compliance order have been completed, as determined by the Director, Western 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,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Chris Hoidal, Director, Western Region, OPS
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS
Mr. Dean Dick, Operations Director, Kinder Morgan Pipelines (USA), Inc.
800 Werner Court, Suite 352, Casper, Wyoming 82601

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)	
)	
Kinder Morgan Pipelines (USA), Inc.,)	CPF No. 5-2011-5005
)	
Respondent.)	
)	

FINAL ORDER

On August 1 to 6, 2010, 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 Kinder Morgan Pipelines (USA), Inc. (Kinder Morgan or Respondent), in Wyoming and Montana. The particular focus of the inspection was Kinder Morgan's Express Pipeline, a 783-mile pipeline that transports crude oil from Hardisty, Alberta, Canada, to Casper, Wyoming.¹

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated February 28, 2011, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Kinder Morgan had committed various violations of 49 C.F.R. Part 195 and proposed ordering Respondent to take certain measures to correct the alleged violations. The Notice also proposed finding that Respondent had committed certain other probable violations of 49 C.F.R. Part 195 and warning Respondent to take appropriate corrective action or be subject to future enforcement action.

Kinder Morgan responded to the Notice by letter dated March 29, 2011 (Response). The company contested some of the allegations of violation and provided information concerning the corrective actions it had taken. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 195, as follows:

¹ http://www.kindermorgan.com/business/canada/express_platte.cfm (last accessed Nov. 12, 2011).

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.404(a)(1)-(4), which states:

§ 195.404 Maps and records.

(a) Each operator shall maintain current maps and records of its pipeline systems that include at least the following information:

- (1) Location and identification of the following pipeline facilities:
 - (i) Breakout tanks;
 - (ii) Pump stations;
 - (iii) Scraper and sphere facilities;
 - (iv) Pipeline valves;
 - (v) Facilities to which § 195.402(c)(9) applies;
 - (vi) Rights-of-way; and
 - (vii) Safety devices to which § 195.428 applies.
- (2) All crossings of public roads, railroads, rivers, buried utilities, and foreign pipelines.
- (3) The maximum operating pressure of each pipeline.
- (4) The diameter, grade, type, and nominal wall thickness of all pipe.

The Notice alleged that Kinder Morgan violated § 195.404(a)(1)-(4) by failing to maintain current maps and record of its pipeline system. Specifically, the Notice alleged that Respondent had not updated its alignment sheets since 2003, and that field personnel were still using alignment sheets dating from 1998.²

In its Response, Kinder Morgan stated that the company was in the process of updating its alignment sheets at the time of the OPS inspection. Kinder Morgan further stated that it had finished that project on November 1, 2010, and that it had provided the current alignment sheets to all of its field personnel.

Respondent did not dispute the allegation that its alignment sheets were outdated at the time of the OPS inspection. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.404(a)(1)-(4) by failing to maintain current maps and records of its pipeline system.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.428(a), which states:

§ 195.428 Overpressure safety devices and overflow protection systems.

(a) Except as provided in paragraph (b) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not to exceed 7½ months, but at least twice each calendar year, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it

² The Notice also alleged that Kinder Morgan had failed to make certain other records available, as required under 49 C.F.R. § 195.402(c)(1). As the allegation of violation in Item 1 relates solely to the maps and records requirements in § 195.404, no further consideration will be given to Kinder Morgan's compliance with the requirements in § 195.402(c)(1).

is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.

The Notice alleged that Kinder Morgan violated § 195.428(a) by failing to inspect and test the pressure control equipment at the Wild Horse Pump Station, at intervals not exceeding 15 months but at least once each calendar year. Specifically, the Notice alleged that the Wild Horse Pump Station was located in Canada and operated by another Kinder Morgan subsidiary, yet it provided the sole pressure and overpressure protection for that portion of the Express Pipeline from the Canadian border to the Faulkners Coulee Pump Station. The Notice further alleged that at the time of the OPS inspection, Kinder Morgan had no evidence showing that the pressure control equipment at the Wild Horse Pump Station had been inspected and tested at intervals not exceeding 15 months, but at least once each calendar year.

In its Response, Kinder Morgan stated that the pressure control equipment at the Wild Horse Pump Station had been inspected and tested at the prescribed intervals. Kinder Morgan further stated that the documentation from those inspections and tests was kept at its offices in Hardisty, Alberta, Canada, but that such records could be accessed online by its U.S. personnel at any time. Kinder Morgan also stated that it would provide those records to OPS.

OPS has received the inspection and testing records for the pressure control equipment at the Wild Horse Pump Station, and is satisfied that the records show that the required tests and inspections did occur at the prescribed intervals. Accordingly, after considering all of the evidence, I am withdrawing this allegation of violation.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.430, which states:

§ 195.430 Firefighting equipment.

Each operator shall maintain adequate firefighting equipment at each pump station and breakout tank area. The equipment must be—

- (a) In proper operating condition at all times;
- (b) Plainly marked so that its identity as firefighting equipment is clear; and
- (c) Located so that it is easily accessible during a fire.

The Notice alleged that Kinder Morgan violated § 195.430 by failing to maintain adequate firefighting equipment at each pump station and breakout tank area. In particular, the Notice alleged that Kinder Morgan had not distributed tactical firefighting “preplans” for its pump stations and breakout tanks to local firefighting organizations within Montana. It stated that these preplans were supposed to describe the equipment and products needed for fighting fires at each Kinder Morgan facility. The Notice alleged that Kinder Morgan had indicated that it planned to distribute the preplans and to coordinate with local firefighting organizations, but that the company had not yet determined what fire equipment was needed at each pump station and tank.

In its Response, Kinder Morgan contended that it had maintained, and would continue to maintain, adequate firefighting equipment at each pump station and breakout tank area. Specifically, the company stated that it had fire protection plans in place for the breakout-tank facilities in Edgar and Buffalo, and that it was in the process of developing such plans for its non-tank facilities at the time of the OPS inspection. Kinder Morgan further stated that it had completed its non-tank facility fire protection plans, and that it planned to review those plans with local firefighting officials in early 2011. The company also noted that it had provided a fire training session for local emergency response officials at the Edgar facility, that it had an ongoing liaison program with local firefighting organizations, and that it would provide OPS with records verifying the implementation of that program.

I find that Respondent has taken some steps to ensure that adequate firefighting equipment is maintained at its breakout tanks in Montana, but that these steps are inadequate to meet the requirements of § 195.430. The OPS Violation Report noted that while Kinder Morgan had developed fire protection plans for some of its tank facilities, the company had not properly distributed those plans to the appropriate local authorities at the time of the inspection. Moreover, Respondent has not disputed the allegation that it did not have fire protection plans in place for all of its non-tank facilities in Montana at that time, and that those plans were needed to maintain adequate firefighting equipment at those facilities. Accordingly, after considering all of the evidence, I find that Kinder Morgan violated § 195.430 by failing to maintain adequate firefighting equipment at each pump station and breakout tank area.

Item 5: The Notice alleged that Respondent violated 49 C.F.R. § 195.573(c), which states, in relevant part:

§ 195.573 What must I do to monitor external corrosion Control?

(a)

(c) *Rectifiers and other devices.* You must electrically check for proper performance each device in the first column at the frequency stated in the second column.

Device	Check frequency
Rectifier Reverse current switch. Diode. Interference bond whose failure would jeopardize structural protection.	At least six times each calendar year, but with intervals not exceeding 2½ months.
Other interference bond.....	At least once each calendar year, but with intervals not exceeding 15 months.

The Notice alleged that Kinder Morgan violated 49 C.F.R. § 195.573(c) by failing to electrically check for proper performance an interference bond whose failure would jeopardize structural protection, at least six times each calendar year but with intervals not exceeding 2½ months. Specifically, the Notice alleged that the Express Pipeline had a galvanic anode at a test station (TS 12867+42) that appeared to be draining approximately 330 milliamps back to the Yellowstone Pipeline (YPL) at the point where the two pipelines crossed.

The Notice further alleged that the Express Pipeline had picked up foreign current south of the test station when it transected the zone of influence of the YPL foreign ground bed, and that the current was then discharged through the galvanic anode. The Notice asserted that the anode was acting in the same manner as a critical bond and therefore had to be checked at least six times each calendar year, but with intervals not exceeding 2½ months. The Notice alleged that Kinder Morgan had only checked this anode on an annual basis.

In its Response, Kinder Morgan contested the allegation that this foreign current drain was equivalent to a critical bond, but failed to present any evidence supporting its position. The company further indicated that it had nevertheless begun performing a bi-monthly check of the test station in question. Accordingly, upon review of all of the evidence, I find that Kinder Morgan failed to electrically check for proper performance an interference bond whose failure would jeopardize structural protection, at least six times each calendar year but with intervals not exceeding 2½ months.

Item 7: The Notice alleged that Respondent violated 49 C.F.R. § 195.579(b), which states:

§ 195.579 What must I do to mitigate internal corrosion?

- (a)
- (b) *Inhibitors.* If you use corrosion inhibitors to mitigate internal corrosion, you must—
 - (1) Use inhibitors in sufficient quantity to protect the entire part of the pipeline system that the inhibitors are designed to protect;
 - (2) Use coupons or other monitoring equipment to determine the effectiveness of the inhibitors in mitigating internal corrosion; and
 - (3) Examine the coupons or other monitoring equipment at least twice each calendar year, but with intervals not exceeding 7½ months.

The Notice alleged that Kinder Morgan violated § 195.579(b)(3) by using corrosion inhibitors to mitigate internal corrosion, but without examining the coupons or other monitoring equipment at least twice each calendar year at intervals not exceeding 7½ months. Specifically, the Notice alleged that Kinder Morgan had been treating its breakout tanks with biocides in an effort to eliminate bacteria that could cause microbiologically-induced internal corrosion (MIC). The Notice alleged that testing had revealed high levels of MIC in the breakout tanks at the Buffalo Station in 2009, but that Kinder Morgan had not used coupons or other monitoring equipment to evaluate the effectiveness of the previously-administered inhibitors.

In its Response, Kinder Morgan provided a description of its internal corrosion control program and stated that the company has not installed corrosion coupons in the Express Pipeline because

coupons had proven ineffective on the Platte Pipeline System, the 932-mile pipeline that interconnects with the Express Pipeline at Casper, Wyoming. Kinder Morgan further stated that it had now installed ultrasonic probes on the Platte Pipeline System to monitor internal corrosion features, but that no suitable candidates for that program have been identified on the Express Pipeline. Finally, Kinder Morgan stated that it would install an online corrosion monitoring system on the Buffalo Station breakout tank pipelines on or before September 1, 2011, and that it would monitor the equipment in that system at least twice each calendar year, but not to exceed 7½ months, to comply with the requirements in § 195.579(b)(3).

Respondent did not dispute the basic allegation that it had failed to monitor the effectiveness of the biocide inhibitor treatments for the breakout tanks at the Buffalo Station. Accordingly, after considering all of the evidence, I find that Kinder Morgan violated § 195.579(b)(3) by using corrosion inhibitors to mitigate internal corrosion without examining the coupons or other monitoring equipment at least twice each calendar, but with intervals not exceeding 7½ months.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1, 2, 3, 5 and 7 in the Notice for violations of 49 C.F.R. §§ 195.404(a)(1)-(4), 195.428(a), 195.430, 195.573(c), and 195.579(b), respectively. The allegation of violation for Item 2 has been 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.

The Director has indicated that Respondent has taken the following actions to address some of the cited violations:

1. With respect to the violation of § 195.404(a)(1)-(4) (**Item 1**), Respondent has revised the alignment sheets for the Express Pipeline with current information to include new pump stations, breakout tanks, public road crossings, buried utilities, and foreign pipelines. Respondent has distributed current alignment sheets to all field personnel who need those documents to operate and maintain the safety of the Express Pipeline.
2. With respect to the violation of § 195.573(c) (**Item 5**), Respondent has electrically checked its TS 12867+42 foreign current drain and submitted its findings to PHMSA.

Accordingly, I find that compliance has been achieved with respect to these violations. Therefore, the compliance terms proposed in the Notice for Items 1 and 5 are not included in this Order.

As for the remaining compliance terms, 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 § 195.430 (**Item 3**), Respondent must liaison with all local firefighting organizations that would respond to a fire at any of its pump stations or breakout tank areas in Montana to ensure that all equipment and products needed to fight a fire at these facilities are available to those local firefighting organizations. Those liaison activities must occur, any identified deficiencies corrected, and evidence of adequate firefighting equipment being available at Kinder Morgan's facilities must be supplied to PHMSA within 180 days of receipt of this Final Order.
2. With respect to the violation of § 195.579(b) (**Item 7**), Respondent must use coupons or other monitoring equipment and examine such devices twice each calendar year but not to exceed 7½ months to determine the effectiveness of the inhibitors being used at the Buffalo Station. Kinder Morgan must submit evidence to show that coupons or other monitoring equipment have been installed at the Buffalo Station within 60 days of receipt of the Final Order.
3. It is requested that Kinder Morgan maintain documentation of the safety improvement costs associated with the fulfilling of this Compliance Order and submit the total to Chris Hoidal, Director, Western Region, PHMSA. The company should report costs in two categories: 1) total costs associated with preparation/revision of plans, procedures, studies, and analyses; and 2) total costs 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.

WARNING ITEMS

With respect to Items 4 and 6, the Notice alleged probable violations of Part 195 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. § 195.569 (**Item 4**) — Respondent's alleged failure to examine exposed portions of its buried pipeline near Gilford, Montana, for evidence of external corrosion or coating deterioration (i.e., a September 23, 2009 right-of-way activity report indicated that a pipe at Station 1214+90 was exposed but not subject to adequate examination); and

49 C.F.R. § 195.577(a) (**Item 6**) — Respondent's alleged failure to identify, test for, and minimize the effects of stray currents.

Kinder Morgan presented information in its Response showing that it had taken certain actions to address the cited items. Accordingly, having considered such information, I find, pursuant to 49 C.F.R. § 190.205, that probable violations of 49 C.F.R. § 195.569 (Notice Item 4) and 49 C.F.R. § 195.577(a) (Notice Item 6) have occurred and Respondent is hereby advised to correct such conditions. In the event that OPS finds a violation of any of these items 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 \$100,000 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. § 190.215, 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. § 190.215. Unless the Associate Administrator, upon request, grants a stay, the terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued