

DEC 14 2011

Mr. Ron G. McClain
Vice President Engineering and Operations
SFPP, L.P.
500 Dallas Street, Suite 1000
Houston, TX 77002

Re: CPF No. 5-2011-5012

Dear Mr. McClain:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and specifies actions that need to be taken by SFPP, L.P. 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 effective upon the date of mailing as 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. Alan Mayberry, Deputy Associate Administrator for Field Operations, Pipeline Safety
Mr. Chris Hoidal, Director, Western Region, PHMSA

CERTIFIED MAIL – RETURN RECEIPT REQUESTED [71791000164202982276]

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

_____)	
In the Matter of)	
)	
SFPP, L.P.,)	CPF No. 5-2011-5012
)	
Respondent.)	
_____)	

FINAL ORDER

On September 27–30 and October 15 and 19, 2010, pursuant to 49 U.S.C. §§ 60106 and 60117, a representative of the California State Fire Marshall, as agent for 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 SFPP, L.P. (SFPP or Respondent) in the state of California. SFPP, a subsidiary of Kinder Morgan Energy Partners, L.P., operates approximately 2,800 miles of pipeline transporting refined petroleum products in California, Arizona, New Mexico, Nevada, Oregon and Texas.

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated April 5, 2011, a Notice of Probable Violation and Proposed Compliance Order. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that SFPP committed a violation of 49 C.F.R. § 195.583 and proposed that the company be ordered to correct the noncompliance. In accordance with 49 C.F.R. § 190.205, the Notice also included several warning items that advised Respondent to correct probable violations.

SFPP responded to the Notice by letter dated May 11, 2011 (Response). The company contested the allegation of violation and offered additional information concerning the corrective actions it has taken. Respondent did not request a hearing and therefore has waived its right to one.

FINDING OF VIOLATION

Item 3 in the Notice alleged that Respondent violated 49 C.F.R. § 195.583, which states:

§ 195.583 What must I do to monitor atmospheric corrosion control?

(a) You must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion

(c) If you find atmospheric corrosion during an inspection, you must provide protection against the corrosion as required by § 195.581.

The Notice alleged that Respondent violated § 195.583(c) by failing to provide protection against atmospheric corrosion found on its pipeline. Specifically, the Notice alleged that SFPP conducted atmospheric corrosion inspections in 2004 and discovered areas on its pipeline with coating failure, external corrosion, dents, and portions partially covered in soil. The three line sections that had these issues were LS69, LS99, and LS104. The Notice further alleged that in 2010, SFPP performed atmospheric corrosion inspections that identified the same conditions on these line sections had not been remediated, external corrosion had continued to develop, and additional dents were present.

In its Response, Respondent acknowledged that some of the conditions noted in 2004, namely the dents and portions of pipe partially covered in soil, had not been corrected when the same areas were inspected in 2010. SFPP disagreed with the allegation that there was atmospheric corrosion present. SFPP also contended that any remedial measures to protect against atmospheric corrosion were not necessary because the pipe satisfies the exception in § 195.581(c).

Section 195.581(a) states that pipeline operators “must clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere.” Under § 195.581(c), cited by Respondent, operators “need not protect against atmospheric corrosion any pipeline for which [they] demonstrate by test, investigation, or experience appropriate to the environment of the pipeline that corrosion will—(1) only be a light surface oxide; or (2) not affect the safe operation of the pipeline before the next scheduled inspection.”

According to company records, Respondent examined LS69 in 2004 and found “the paint [had] failed on the entire line” and there was “some external corrosion.”¹ Despite finding atmospheric corrosion, Respondent provided no record that it took any measures to provide protection against the corrosion. In 2010, when the company conducted another inspection, approximately 40% of LS69 had developed general atmospheric corrosion and the remaining 60% had even “greater evidence of corrosion and may be considered POOR.”² The 2010 report referenced photographs of “paint cracking and pitting” and “excessive corrosion,” further indications that Respondent did not provide protection against corrosion.³

When Respondent examined LS99 and LS104 in 2004, the company found areas where the paint had failed, the pipe wrap had deteriorated, and there was “some corrosion.”⁴ At that time, the company recommended performing ultrasonic (UT) examinations for possible wall loss. Respondent also recommended UT examinations for dents that were found. Despite finding

¹ Piping Inspection Report Prepared for Kinder Morgan (Sept. 2004) (SFPP 2004 Report), reproduced at Pipeline Safety Violation Report, p. 12 (Apr. 4, 2011).

² Atmospheric Visual Inspection Inside Chevron Refinery (Jul. 2010) (SFPP 2010 Report), reproduced at Violation Report, p. 23 (emphasis in original).

³ SFPP 2010 Report (Violation Report at p. 24).

⁴ SFPP 2004 Report (Violation Report at pp. 17-21).

evidence of corrosion, Respondent provided no record that it took any measures to provide protection against the corrosion. During its 2010 atmospheric corrosion inspection, the company found that a majority of the pipeline sections had developed general atmospheric corrosion, with some areas showing “a greater degree of corrosion,” further indications that Respondent did not provide corrosion protection.⁵ The dents were also still present.⁶

Although Respondent contended that protection against atmospheric corrosion is not necessary because any corrosion will only be a light surface oxide or will not affect safe operations, Respondent did not submit any evidence in support of this contention. To demonstrate that a pipeline meets the exception in § 195.581(c), an operator must be able to “demonstrate by test, investigation, or experience appropriate to the environment of the pipeline” that such conditions exist making it unnecessary to protect against atmospheric corrosion. SFPP did not submit any documented test or investigation demonstrating that the atmospheric corrosion on its pipeline is only light surface oxide and will not affect safe operations. To the contrary, the evidence in the record demonstrates that atmospheric corrosion on Respondent’s pipeline was excessive and had caused some areas to be in poor condition.

Based on the evidence in the record, I find there was atmospheric corrosion present on Respondent’s pipeline facility and the company was required to provide protection against the corrosion under § 195.583(c). Records from 2010 show that SFPP did not provide protection against the corrosion identified in 2004. Accordingly, after considering all of the evidence I find Respondent violated § 195.583(c) by failing to provide protection against atmospheric corrosion found on its pipeline.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to the violation of § 195.583(c). 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.

In its Response, SFPP contended that no atmospheric corrosion protection measures are necessary because the condition of the pipe satisfies § 195.581(c). As determined above, there is no support in the record for this assertion. The atmospheric corrosion present on Respondent’s pipeline facility requires the company to provide protection against the corrosion under § 195.583(c).

Respondent also contended that no remedial measures are needed because it has already evaluated all of the dents and gouges noted in the 2010 atmospheric corrosion inspection record

⁵ SFPP 2010 Report (Violation Report at p. 26).

⁶ SFPP 2010 Report (Violation Report at p. 27).

and everything was in accordance with company standards. Since SFPP did not submit supporting documentation to demonstrate these measures have been completed, the compliance terms remain in the Compliance Order.

Finally, SFPP requested clarification about the proposed compliance item requiring the company to “submit documentation of completed corrective training.” The Notice did not allege a violation with respect to training. Upon further review of the record, I find no reference to training in the Violation Report and no statement that training was an issue in this case. For this reason, the proposed compliance item concerning training is not included in the Compliance Order.

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. SFPP must clean and coat each pipeline or portion of pipeline exposed to the atmosphere where atmospheric corrosion was identified in 2004 or 2010 using a coating material suitable for the prevention of atmospheric corrosion in accordance with §§ 195.581 and 195.583.
2. SFPP must complete ultrasonic (UT) evaluations of the pipeline or portions of pipeline as recommended in the reports issued as a result of the 2004 and 2010 atmospheric corrosion inspections and determine the need for remedial actions. Respondent must also complete evaluations of the dents as recommended in those reports and determine the need for remedial actions.
3. SFPP must complete the above actions and submit documentation of completion to the Director, Western Region, no later than 60 days after Respondent’s receipt of the Final Order. Documentation should be submitted in an electronic format where feasible.
4. It is requested that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and report the total costs to the Director in two categories: (1) total cost associated with preparing or revising written plans, procedures, studies, or analyses; and (2) total cost associated with taking action on the pipeline, including making physical changes to pipeline infrastructure, such as replacements and additions.

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 \$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.

WARNING ITEMS

With respect to Items 1 and 2, the Notice alleged probable violations of Part 195 and considered them to be warning items. The warnings were for:

49 C.F.R. § 195.406(b) (**Item 1**) – Respondent’s alleged failure on several occasions to prevent pressure during surges and other variations from exceeding 110 percent of the maximum operating pressure (MOP); and

49 C.F.R. § 195.583(a) (**Item 2**) – Respondent’s alleged failure to inspect each onshore pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every three calendar years, with intervals not exceeding 39 months.

SFPP presented information in its Response showing that it has taken action to address these items. If OPS finds a violation of these provisions in a subsequent inspection, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.215, Respondent may submit a written Petition for Reconsideration of this Final Order to the Associate Administrator for Pipeline Safety, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590. A petition may be submitted no later than 20 days after receipt of the Final Order by Respondent, provided it contains a brief statement of the issue(s) and meets all other requirements of 49 C.F.R. § 190.215. The terms of the Final Order, including any required corrective action, shall remain in effect 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