



February 7, 2017

Mr. Chris Hoidal, P.E.
Director, Western Region
Pipeline and Hazardous Material Safety Administration
12300 W. Dakota Avenue, Suite 110
Lakewood CO 80228

RE: CPF 5-2016-6006W

Dear Mr. Hoidal:

Kinder Morgan (KM) is in receipt of your Warning Letter dated August 25, 2016 related to: (1) your inspection of LS -14 from Portland to Eugene in June of 2014; (2) your April 26, 2016 Request For Information concerning high flow rates in rivers in Oregon; (3) KM's June 9, 2016 response to that request; and (4) KM's meeting with you on June 30, 2016. The Warning Letter alleges probable violations of 49 CFR Part 195.452 (i) (1) and (4). KM believes that it is fully compliant with the regulations and that the Warning Letter is unfounded. For the reasons set out below, KM hereby objects formally on the record to both the procedural and substantive elements of the Warning Letter

PHMSA Allegations

The Warning Letter alleges probable violations of 49 CFR Part 195.452 (i) (1) and (4), claiming that KM: did not do a "...detailed EFRD evaluation at the Willamette River crossings" ... and therefore "...does not address all the mandatory factors for evaluating EFRDs ..."; and that "... past evaluations did not address the volume that can be released, the unique nature of the high consequence area, and benefits expected by reducing the spill size."

KM Response

1. First, we note what the law and regulations require. 49 CFR Part 195.452 (i) (1), requires Operators to conduct "...a risk analysis of the pipeline segment to identify additional actions to enhance public safety or environmental protection." In addition, § 195.452 (i) (4) provides factors to be *considered* for determining the need for additional EFRDs. KM conducted the requisite EFRD analysis of entire line segment of LS-14 from Portland to Eugene, which included the Willamette River Crossings in 2009, with a follow up engineering review in 2012, as your letter indicates. Consideration of the need for additional EFRDs is explicitly required by KM's EFRD Analysis Procedure and was considered in the analysis of LS-14. This KM procedure has been reviewed and found acceptable on numerous occasions during past PHMSA inspections. Therefore KM complied fully with the regulations by considering all the factors required to be considered before making the determination about the need for additional EFRDs.

2. At the top of Page 3 of your letter, you state that "...it does not appear that evaluation of all Willamette River crossings were formally evaluated in the EFRD studies conducted in 2009 and 2012." We disagree. Those studies expressed the volumes released in a graphical form and those volumes were included in the formal evaluation of the line segment, which included the Willamette River. Therefore, we did formally consider volumes released. As discussed with you at your office on June 30th, 2016, that analysis disclosed another section of LS-14 warranting further EFRD analysis and consideration, not the Willamette River crossing.
3. Moreover, the river-crossing-focused analysis KM conducted in response to your April 26, 2016 Request For Information concerning high flow rates in rivers in Oregon, considered all the required factors, confirmed our earlier determinations, and drew the same conclusion, which is valves at the Willamette River Crossing are not warranted. For the record, KM's river-crossing-focused analysis determined that installing automated gate valves upstream and downstream of the Willamette River crossing would result in the following release volume reduction:
 - a. Maximum release volume on entire LS-14 line = 3,228 barrels
 - b. Maximum release volume at Willamette River Crossing = 1,122 barrels
 - c. Maximum release volume at Willamette River Crossing if automated gate valves were placed on both sides of the Willamette River = 673 barrels
 - i. This would be a reduction of the maximum release volume at the Willamette River Crossing of approximately 450 barrels (not the 673 barrels referenced in your letter, which was unfortunately due to your reliance on a KM typo in an earlier document that incorrectly stated a reduction "by" 673 barrels, instead of the correct reduction "to" 673 barrels – we apologize for the error)
4. Given the nature of the products transported, and the limited reduction in volumes that would have an impact to the environment, emergency response, and subsequent clean up, KM concluded that adding automated gate valves on both sides of the Willamette River crossing was not warranted. The factors that most affect the release damage and required response are typically the temperature and flow rate of the river. The release damage and required response associated with a 673 barrel release are essentially the same as those for a 1,122 barrel release.
5. The concerns expressed in your letter appear to be, in part, based on the unique characteristics of the Willamette River as an "American Heritage River". While we understand and value the importance of that designation, "American Heritage Rivers" are not one of the elements that define HCA's. HCA's by definition are Navigable Waterways, high population areas, other population areas, and unusually sensitive areas, such as drinking water areas or ecological resource areas, that are unusually sensitive to environmental damage from a hazardous liquid pipeline release. The Willamette River is by definition a HCA and subject to KM's Integrity Management Program, but there is no regulatory requirement to handle the Willamette River differently than any other HCA.

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6. With respect to valve placement at River Crossings, we agree with you that 49 CFR Part 195.260 (e), which requires valves on both sides of a river crossing that is more than 100 feet across, does not apply to LS-14, which was constructed before the Federal pipeline safety regulations were issued. And, of course, automated valves are not required in any case by the regulations. We do agree that the need for EFRDs must be considered, but we disagree with the inference in your letter that valves “must” be installed. Installation of EFRDs is required only if the operator considers all relevant factors and determines that an EFRD is needed on a pipeline segment to protect a high consequence area in the event of a hazardous liquid pipeline release. KM considered all relevant factors and did not find that an EFRD was needed.
7. Finally, your letter implies a lack of justification for KM’s determination that it was not necessary to install two specific EFRD valves which were under consideration as a result of our 2009 EFRD study. KM considered all relevant factors and concluded in its EFRD Project Closure Report, dated February 20, 2012, that those two particular valves were not necessary. KM confirms and stands by that determination as fully compliant with the regulations. We request that this response to your Warning Letter be posted on PHMSA’s website at the same location as the Warning Letter.

We appreciate the opportunity to provide this additional information. KM is committed to protecting people, to protecting the environment, and to complying fully with the regulations. If you have any questions, do not hesitate to call Buzz Fant at 713 369-9454 or me at 713 420-6330.

Sincerely,



Wayne Simmons

Chief Operating Officer, Products Pipelines