

WARNING LETTER

VIA E-MAIL TO MR. WAYNE SIMMONS

April 8, 2022

Mr. Wayne Simmons
Chief Operating Officer
Kinder Morgan, Inc.
1001 Louisiana Street, Suite 1000
Houston, Texas 77002

CPF 5-2022-036-WL

Dear Mr. Simmons:

From March 7 through March 11, 2022, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code (U.S.C.), and in agreement with the CAL FIRE - Office of the State Fire Marshal (OSFM), inspected Kinder Morgan, Inc.'s (KMI) anomaly repairs associated with selective seam weld corrosion in San Joaquin and Contra Costa Counties, California. These anomalies are subject to a Notice of Proposed Safety Order issued to KMI on October 21, 2021.¹ CPF 5-2021-056-NOPSO.

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

¹ In April 2021, KMI reported to PHMSA that it missed the time period to remediate over 2,700 anomalies (this number has since been updated to over 3,000 anomalies) occurring on or along the longitudinal seam welds across various liquid pipeline assets traversing high consequence areas (HCAs) or HCA could-affect areas in numerous states.

1. § 195.402 Procedural manual for operations, maintenance, and emergencies.

(a) General. Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. . .

KMI failed to follow its manual of written procedures for conducting normal operations and maintenance activities.

During the inspection, PHMSA observed KMI install a B-Sleeve on LS-9 of the SFPP pipeline at Joint #92410. During the repair, PHMSA observed contract welders not following KMI's Welding Procedure Specification #407.103, Rev. August 11, 2021.²

Specifically, the welders failed to follow:

1. QW-404 – Filler Metal (page 2) which requires welding rod AWS No. E6010 on the root pass weld of the Standard V-Bevel Butt Joint.

During the inspection, the welders confirmed to PHMSA that AWS No. E7018 was incorrectly used for the root pass weld.

2. QW-404 Filler Metal (page 2) under subsection Line-Up Clamp for Sleeve Longitudinal Welds, it states: "External chain load binder or other supporting device as required shall be held in place until a minimum of 90 percent of the root pass of both longitudinal welds is completed."

During the inspection, PHMSA observed the line-up clamps to have been removed at approximately 61% of the root pass of both longitudinal weld completion.³

2. § 195.402 Procedural manual for operations, maintenance, and emergencies.

(a) General. Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. . .

KMI failed to follow its manual of written procedures for conducting normal operations and maintenance activities.

During the inspection, PHMSA observed KMI contractors (ARB, Inc.) excavating a portion of LS-72 of the SFPP pipeline at Joint #5620.

² Section 195.10 states that, although an operator may make arrangements with another person for the performance of any action required by Part 195, the operator is not relieved from its responsibility for compliance with any requirements set forth in Part 195.

³ PHMSA understands that the line-up clamp percentage requirement was added to KMI's written procedure after observations and discussions with the Virginia State Corporation Commission following an anomaly repair in 2021.

During the excavations, PHMSA observed workers using power tools/equipment within 24” of the pipeline.

Per KMI’s written procedure “L-O&M Construction Near Company Facilities, Revised February 10, 2021, Section 3.9 Excavating Lines and Excavating Near Other Utilities, Subsection 3.9.1 KM initiated and Third Party Excavation Activities,” Item F states: “[o]nce the pipeline is exposed, no power equipment shall dig closer than 24” (610 mm) or as specified by state/provincial law, whichever is more stringent, to any point on the circumference of the pipeline and probing shall be done during excavation.”

Section 3.18 of the procedure also allows for a waiver or variance request, but an approved request was not made available to PHMSA during the inspection.

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are 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 violation 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 violation 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 violation 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 violation 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.

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 correct the items identified in this letter. Failure to do so will result in Kinder Morgan, Inc. being subject to additional enforcement action.

No reply to this letter is required. If you choose to reply, in your correspondence please refer to **CPF 5-2022-036-WL**. 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).

Sincerely,

Dustin Hubbard
Director, Western Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

cc: PHP-60 Compliance Registry
PHP-500 D. Fehling (#21-210445)
Jim Hosler, Asst. Deputy Director, Chief of Pipeline Safety and CUPA Programs, CAL
FIRE - Office of the State Fire Marshal
Huy Nguyen, Supervising Pipeline Safety Engineer, CAL FIRE - Office of the State Fire
Marshal