



U.S. Department
of Transportation

Pipeline and Hazardous
Materials Safety
Administration

1200 New Jersey Avenue, SE
Washington, D.C. 20590

OCT 16 2012

Mr. Mike Moore
Vice President Pipelines and Trucking Operations
Genesis Pipeline USA, L.P.
919 Milam, Suite 2100
Houston, Texas 77002-5417

Re: CPF No. 2-2012-5004

Dear Mr. Moore:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$12,500. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon receipt of payment. 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. Wayne Lemoi, Director, Southern Region, PHMSA
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS

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

Genesis Pipeline USA, L.P.,

Respondent.

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CPF No. 2-2012-5004

FINAL ORDER

Between November 2, 2011 to February 16, 2012, 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 written operations and maintenance (O&M) procedures, facilities, and records of Genesis Pipeline USA, L.P. (Genesis or Respondent) in Alabama. Genesis' pipeline system in Alabama and Florida consists of 100 miles that transport both trucked and field produced crude oil into several terminals, including Shell's Mobile, Alabama refinery.¹

As a result of the inspection, the Director, Southern Region, OPS (Director), issued to Respondent, by letter dated May 21, 2012, a Notice of Probable Violation and Proposed Civil Penalty (Notice), which also included a warning pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Genesis had committed various violations of 49 C.F.R. § Part 195 and proposed assessing a civil penalty of \$12,500 for one probable violation and a warning for four probable violations. The warning items required no further action, but warned the operator to correct the probable violation.

Genesis responded to the Notice by letter to PHMSA dated June 15, 2012 (Response). The company did not contest the allegations but provided information concerning corrective actions it has taken in response to the Notice. Respondent did not request a hearing and therefore has waived its right to one.

FINDING OF VIOLATION

In its Response, Genesis did not contest the allegation in the Notice that it violated 49 C.F.R.

¹ See <http://genesisenergy.com/index.cfm?md=pagebuilder&tmp=home&pid=80&pnid=29&nid=113> (last accessed Sept. 26, 2012).

Part 195, as follows:

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.561(b), which states:

§ 195.561 – When must I inspect pipe coating used for external corrosion control?

- (a) You must inspect all external pipe coating required by §195.557 just prior to lowering the pipe into the ditch or submerging the pipe.
- (b) You must repair any coating damage discovered.

The Notice alleged that Respondent violated 49 C.F.R. § 195.561(b) by failing to properly repair coating damage discovered near Mile Post 24.239 on its Frisco City to I-65 Jct. pipeline. Specifically, the Notice alleged that a coating repair product designed for repairing coating defects of up to 2mm in diameter was used to repair coating defects larger than 2mm in diameter.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.561(b) by failing to properly repair coating damage discovered near Mile Post 24.239 on its Frisco City to I-65 pipeline.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$100,000 per violation for each day of the violation, up to a maximum of \$1,000,000 for any related series of violations.²

49 U.S.C. § 60122 and 49 C.F.R. § 190.225 require that, in determining the amount of a civil penalty, I consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; the Respondent's ability to pay the penalty and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$12,500 for the violation cited above.

Item 3: The Notice proposed a civil penalty of \$12,500 for Respondent's violation of 49 C.F.R. § 195.561(b), for failing to properly repair coating damage discovered near Mile Post 24.239 on its Frisco City to I-65 pipeline. Genesis neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. With respect to the nature and gravity of this violation, the proper repair of pipe coating damage is a key part of protecting against external corrosion. I acknowledge that Respondent is re-training its technicians on the

² Effective January 3, 2012, the maximum administrative civil penalties for violations of the federal pipeline safety regulations were doubled to \$200,000 per violation with a maximum of \$2,000,000 for a related series of violations (The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (Pub. L. 112-90)). Because the violations in this case occurred prior to the increase, the higher maximums do not apply.

application and repair of coatings, but this does not diminish its culpability at the time of the violation or constitute a good faith effort to comply prior to the violation. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$12,500 for violation of 49 C.F.R. § 195.561(b).

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to be made by wire transfer through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-341), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 269039, Oklahoma City, Oklahoma 73125. The Financial Operations Division telephone number is (405) 954-8893.

Failure to pay the \$12,500 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a district court of the United States.

WARNING ITEMS

With respect to Items 1, 2, 4, and 5, 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. § 195.49 (**Item 1**) — Respondent's alleged failure to accurately complete its Annual Reports for calendar years 2009 and 2010 because it incorrectly reported the mileage of its Part 195 regulated pipelines, the mileage of its pipeline segments that could affect an HCA, and its number of breakout tanks;

49 C.F.R. § 195.432 (**Item 2**) — Respondent's alleged failure to properly perform the required API Standard 653 (API 653) visual external inspection of a 30,000 barrel breakout tank (No. 2138) at Jay Station within five years of the previous API 653 inspection in 2006 using an "authorized inspector;"

49 C.F.R. § 195.579 (**Item 4**) — Respondent's alleged failure to inspect the internal surface of pipe that was removed from the I-65 Junction in 2010 for internal corrosion; and

49 C.F.R. § 195.589 (**Item 5**) — Respondent's alleged failure to adequately maintain corrosion control records for coupon monitoring in calendar year 2011.

Genesis presented information in its Response showing that it had taken certain actions to address the cited items. If OPS finds a violation of these items, Respondent may be subject to future enforcement action.

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

OCT 16 2012

Date Issued