July 24, 2018

Mr. James Holland
President – Products Pipelines
Plantation Pipe Line Company
Kinder Morgan Energy Partners, LP
500 Dallas Street, Suite 100
Houston, TX 77002

Re: CPF No. 2-2017-5007

Dear Mr. Holland:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and assesses a civil penalty of $28,800. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer dated January 10, 2018. This enforcement action is now 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,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. James Urisko, Director, Southern Region, Office of Pipeline Safety, PHMSA

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	)	
Plantation Pipe Line Company,	)	**CPF No. 2-2017-5007**
a subsidiary of Kinder Morgan Energy Partners, LP,	)	
Respondent.	)	

FINAL ORDER

From August 9 through December 16, 2016, pursuant to 49 U.S.C. § 60117, representatives of the Virginia State Corporation Commission (VA SCC), as agents 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 Plantation Pipe Line Company (PPL or Respondent), in Richmond, Virginia. PPL, a subsidiary of Kinder Morgan Energy Partners, LP, is a refined-petroleum products pipeline operator in the United States that delivers gasoline, jet fuel, diesel and biodiesel through its approximately 3,100-mile pipeline network in eight States, running from near Baton Rouge, Louisiana, to the Northern Virginia area near Washington, D.C.[1]

As a result of the inspection, the Director, Southern Region, OPS (Director), issued to Respondent, by letter dated December 21, 2017, 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 PPL had violated 49 C.F.R. § 195.452(h) and proposed assessing a civil penalty of $28,800 for the alleged violation. The warning item required no further action, but warned the operator to correct a probable violation or face possible future enforcement action.

PPL responded to the Notice by letter dated January 8, 2018 (Response). The company did not contest the allegation of violation and paid the proposed civil penalty of $28,800 by wire transfer dated January 10, 2018. In accordance with 49 C.F.R. § 190.208(a)(1), such payment authorizes the Associate Administrator to make a finding of violation and to issue this final order without further proceedings.

[1] https://www.kindermorgan.com/pages/business/products_pipelines/plantation.aspx (last accessed May 7, 2018).

FINDING OF VIOLATION

In its Response, PPL did not contest the allegation in the Notice that it violated 49 C.F.R. Part 195, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h), which states, in relevant part:

> **§ 195.452 Pipeline integrity management in high consequence areas..**
> (a) …
> (h) *What actions must an operator take to address integrity issues?*
> (1) *General requirements*. An operator must take prompt action to address all anomalous conditions the operator discovers through the integrity assessment or information analysis. In addressing all conditions, an operator must evaluate all anomalous conditions and remediate those that could reduce a pipeline's integrity. An operator must be able to demonstrate that the remediation of the condition will ensure the condition is unlikely to pose a threat to the long-term integrity of the pipeline. An operator must comply with § 195.422 when making a repair.
> (2) *Discovery of condition*. Discovery of a condition occurs when an operator has adequate information about the condition to determine that the condition presents a potential threat to the integrity of the pipeline. An operator must promptly, but no later than 180 days after an integrity assessment, obtain sufficient information about a condition to make that determination, unless the operator can demonstrate that the 180-day period is impracticable.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h) by failing to promptly, but no later than 180 days after an integrity assessment, obtain sufficient information about identified anomalous conditions to determine whether the conditions presented potential threats to the integrity of the pipeline. Specifically, the Notice alleged that on October 12, 2015, PPL received the in-line inspection (ILI) vendor's Final Report of an April 16, 2015 integrity assessment performed on Respondent's 12-inch-14W Richmond Junction to Newington Station line, 179 days after the assessment.

Additionally, the Notice alleged that the company's ILI vendor provided PPL with a Corrected Final Report on March 1, 2016, 320 days after the assessment. This Corrected Final Report identified 45 180-day conditions. At the time of the inspection, PPL indicated that it had not discovered the 45 identified conditions until March 4, 2016, which was 323 days after the assessment, or 143 days beyond the allowable 180-day discovery period. Moreover, the Notice alleged that PPL did not demonstrate to the VA SCC inspectors that the 180-day period for discovery of the 45 identified conditions was impracticable.

Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(h) by failing to promptly, but no later than 180 days after an integrity assessment, obtain sufficient information about identified conditions to determine whether the

conditions presented potential threats to the integrity of the pipeline, or to demonstrate that the 180-day period was impracticable.

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

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed $200,000 per violation for each day of the violation, up to a maximum of $2,000,000 for any related series of violations.[2] In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must 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; 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 $28,800 for the violation cited above.

Item 1: The Notice proposed a civil penalty of $28,800 for Respondent's violation of 49 C.F.R. § 195.452(h), for failing to promptly, but no later than 180 days after an integrity assessment, obtain sufficient information about identified anomalous conditions to determine whether the conditions presented potential threats to the integrity of the pipeline, or to demonstrate that the 180-day period was impracticable. PPL neither contested the allegation nor presented any evidence or argument justifying a reduction in, or elimination of, the proposed penalty. The violation was an activities violation discovered by VA SCC, and occurred in a high consequence area. Although PPL failed to take appropriate action to comply with a requirement that was clearly applicable, PPL provided a reasonable explanation for the violation. Specifically, PPL stated that the intent was to have adequate information available in order to meet the 180-day period, but various compounding delays not entirely within PPL's control had led to an oversight of the regulatory requirement.

Accordingly, having reviewed the record and considered the assessment criteria for Item 1, I assess Respondent a total civil penalty of **$28,800,** which amount has already been paid by Respondent by wire transfer dated January 10, 2018.

WARNING ITEM

With respect to Item 2, the Notice alleged a probable violation of Part 195 but did not propose a civil penalty or compliance order for this item. Therefore, this is considered to be a warning item. The warning was for:

[2] These amounts are adjusted annually for inflation. *See, e.g.*, Pipeline Safety: Inflation Adjustment of Maximum Civil Penalties, 82 Fed. Reg. 19325 (April 27, 2017).

49 C.F.R. § 195.452(l) **(Item 2) —** Respondent's alleged failure to maintain documents to support the decisions and analyses, including any modifications, justifications, deviations and determinations made, variances, and actions taken, that would explain why meeting the 180-day period of discovery following an integrity assessment was impracticable, as required by § 195.452(h)(2).

If OPS finds a violation of this provision in a subsequent inspection, 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.

July 24, 2018

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued