

May 14, 2021

VIA ELECTRONIC MAIL TO: mike.mears@magellanlp.com

Mr. Michael N. Mears
President and Chief Executive Officer
Magellan Midstream Partners, LP
One Williams Center
PO Box 22186
Tulsa, Oklahoma 74172-2186

Re: CPF No. 3-2019-5007

Dear Mr. Mears:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a reduced civil penalty of \$97,400, and specifies actions that need to be taken by your subsidiary, Magellan Pipeline Company, LP, to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the compliance order completed, as determined by the Director, Central Region, this enforcement action will be closed. Service of the Final Order by electronic mail is effective upon the date of transmission 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. Gregory Ochs, Director, Central Region, Office of Pipeline Safety, PHMSA
Mr. Jason Smith, Vice President, Asset Integrity, Magellan Pipeline Company, LP
jason.smith@magellanlp.com
Mr. Mark Materna, Director, Pipeline Integrity, Magellan Pipeline Company, LP
mark.materna@magellanlp.com

CONFIRMATION OF RECEIPT REQUESTED

FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 195, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a), which states:

§ 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. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted

(c) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:

(1) Making construction records, maps, and operating history available as necessary for safe operation and maintenance.

The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a) by failing to follow its manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. Specifically, the Notice alleged that on multiple occasions, Magellan failed to make necessary records and maps available to personnel for the safe operation and maintenance of its pipeline, as required by § 195.402(c)(1), as well as its operation and maintenance (O&M) manual. The Notice alleged that as a result, remotely operated valves could not be safely operated because maps and records were not suitably available for use by personnel during the performance of these operations.

The Notice specified three instances when the PHMSA inspector observed this alleged violation: (1) on July 20, 2016, at the Bateman Station in Wisconsin when Magellan personnel opened the wrong valve during an operator qualification task protocol evaluation; (2) on September 27, 2016, at Rockford Station in Illinois when Magellan field personnel and control room operator had trouble identifying a remote operated valve; and (3) on January 25, 2017, at Magellan's Control Room when a pipeline controller was unable to produce maps or records that could properly identify the location of valves to field personnel.

In its response, Magellan did not contest the allegation of violation that occurred on July 20, 2016, at Bateman Station. However, Magellan contested the allegations referenced on September 27, 2016, at Rockford Station, and January 25, 2017, at the Magellan Control Room. Magellan claimed that the facts in the Notice and the Violation Report do not prove that a violation occurred on these dates. Concerning the September 27, 2016 allegation of violation, Magellan argued that the PHMSA inspector requested that Magellan operate the mainline valve

by calling the Magellan Control Room and requesting that the valve be opened. Magellan claimed that the local Magellan representative described the valve to the Controller in Magellan's Control Room to ensure the correct valve was operated. Magellan also noted that PHMSA records for the September 27, 2016 inspection included the following note: "Operated the valve remotely and local."

Regarding the January 25, 2017 allegation of violation, Magellan argued that during an impromptu visit to the Control Room, the PHMSA inspector asked if the valve numbering on the supervisory control and data acquisition (SCADA) screen matched the numbering in the field and inquired if the Magellan representative had access to the piping and instrumentation diagrams (P&IDs) to confirm specific valve locations. The representative indicated that he did not. In its Response, Magellan explained that all Magellan employees have access to maps and records, including P&IDs, through its Intranet Webpage, which is available in the Control Room. However, controllers in the Control Room are not typically expected to access P&IDs, as other Magellan programs and processes are in place to ensure accurate SCADA screens and nomenclature to reduce the complexity of operations for controllers.

Upon review of the additional information provided by Magellan, pursuant to § 190.209(b)(7), the Director provided a written evaluation of the response material and recommended that the September 27, 2016 Rockford Station and the January 25, 2017 Magellan Control Room instances of violation be withdrawn.² After considering the additional information and explanations provided by Magellan, I agree. However, as noted above, the allegation of violation occurring on July 20, 2016, at Bateman Station in Wisconsin was uncontested.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.402(a) by failing to follow its manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies on July 20, 2016, at the Bateman Station in Wisconsin. The September 27, 2016 Rockford Station and the January 25, 2017 Magellan Control Room instances of violation are hereby withdrawn.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.428(a), which states:

§ 195.428 Overpressure safety devices and overfill protection systems.

(a) Except as provided in paragraph (b) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not to exceed 7 ½ months, but at least twice each calendar year, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.

The Notice alleged that Respondent violated 49 C.F.R. § 195.428(a) by failing to inspect and test

² Region Recommendation, at 2 (on file with PHMSA).

each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used, at intervals not exceeding 7 ½ months, but at least twice each calendar year, for pipelines used to carry highly volatile liquids (HVL). Specifically, the Notice alleged that Magellan did not inspect overfill protection on breakout tanks used to store HVL at least twice a year, with intervals not to exceed 7 ½ months. The Notice alleged that four HVL tanks located at Magellan's Des Moines, Iowa terminal were put into service in 2009, yet records presented to the PHMSA inspector showed that no inspection of the overfill protection system was performed after the tanks were put into service until June 30, 2016.³

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. § 195.428(a) by failing to inspect and test the overfill protection system on four breakout tanks used to store HVL to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used, at intervals not exceeding 7 ½ months, but at least twice each calendar year.

These findings of violation will be considered prior offenses 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.⁴ 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; any effect that the penalty may have on its ability to continue doing business; the good faith of Respondent in attempting to comply with the pipeline safety regulations; and self-disclosure or actions to correct a violation prior to discovery by PHMSA. 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 \$118,000 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$ 51,400 for Respondent's violation of 49 C.F.R. § 195.402(a), for failing to follow its manual of written procedures for making construction records, maps, and operating history available as necessary for safe operation and maintenance. As explained in detail above, Magellan contested two of the three instances of violation and based on the additional information provided, those two instances have been withdrawn. Regarding the civil penalty, Magellan also argued that the history of prior offenses should be

³ The four tanks are identified as 2021, 2022, 2023, and 2024.

⁴ These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223.

corrected because six of the eight prior offenses listed in the Violation Report occurred outside of the five-year period prior to the date the Notice was issued. Having reviewed the information, I agree. Accordingly, I find that the record supports a reduction in the number of instances of violation from three to one, as well as reduction in the number of prior offenses from eight findings of violation to two.

Based upon the foregoing, I assess Respondent a reduced civil penalty of \$38,000 for the violation of 49 C.F.R. § 195.402(a).

Item 2: The Notice proposed a civil penalty of \$66,600 for Respondent's violation of 49 C.F.R. § 195.428(a), for failing to inspect and test the overfill protection system on four breakout tanks used to store HVL at intervals not exceeding 7 ½ months, but at least twice each calendar year. Magellan did not contest this allegation of violation but similarly argued that the history of prior offenses should be corrected because six of the eight prior offenses listed occurred outside of the five-year period prior to the date the Notice was issued. Once again, having reviewed the information, I agree. Accordingly, I find that the record supports a reduction in the number of prior offenses from eight findings of violation to two.

Based upon the foregoing, I assess Respondent a reduced civil penalty of \$59,400 for violation of 49 C.F.R. § 195.428(a).

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total reduced civil penalty of **\$97,400**.

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 (AMK-325), Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 S MacArthur Blvd, Oklahoma City, Oklahoma 79169. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the \$97,400 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.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 1 in the Notice for violation of 49 C.F.R. § 195.402(a). 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.

With regard to the violation of § 195.402(a) (Item 1), Respondent requested that the compliance order be withdrawn because the company has already implemented the requested corrective action. Magellan stated that “[a]s part of the ongoing dialogue during the 2016 inspection, Magellan implemented corrective actions regarding the requirements for remote controlled valve identification and physical tagging of the asset.” Magellan contended that these requirements were incorporated into its procedure 7.13-ADM-1035, Mainline Valve Inspection Procedure, a copy of which was provided to PHMSA.

Pursuant to § 190.209(b)(7), the Director provided a written evaluation of the response material submitted by Respondent and stated he did not find the provided information adequate to satisfy the proposed compliance order.⁵ Specifically, the Director explained that Magellan needs to provide its O&M Form 07-FORM-1035 for all mainline valves at the Bateman Station necessary for the safe operation of the pipeline, within the scope of the inspection, to document that it has followed its O&M procedure 7.13-ADM-1035 Sections 3.17, 3.1.18.2.1 and 3.1.19.1.1.⁶

While I appreciate Magellan’s early efforts to comply with the Compliance Order by revising and providing its Mainline Valve Inspection Procedure, the Compliance Order’s focus is on the development of records needed for field and control room personnel to positively identify the location of valves; it did not request revised procedures. Since Magellan has not provided any records field and control room personnel will use to positively identify the location of valves, the Compliance Order is not withdrawn as set forth below.

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. With respect to the violation of § 195.402(a) (**Item 1**), Respondent must develop adequate records needed for field and control room personnel to positively identify the location valves necessary for the safe operation of the pipeline.
2. Within sixty (60) days after receipt of a Final Order, Magellan must submit documentation to the Director, Central Region, demonstrating that Item 1 and have been completed.

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.

PHMSA requests that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. It is requested that these costs be reported in two categories: (1) total cost associated with preparation/revision of plans, procedures, studies and analyses; and (2) total cost associated with replacements, additions and other changes to pipeline infrastructure.

⁵ Region Recommendation, at 3 (on file with PHMSA).

⁶ *Id.*

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000, as adjusted for inflation (49 C.F.R. § 190.223), 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.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address, no later than 20 days after receipt of service of this Final Order by Respondent. Any petition submitted must contain a statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The filing of a petition automatically stays the payment of any civil penalty assessed. The other terms of the order, including corrective action, 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.

May 14, 2021

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued