U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

August 15, 2022

VIA ELECTRONIC MAIL TO: pierce.norton@oneok.com

Mr. Pierce H. Norton II
President and Chief Executive Officer
OkTex Pipeline Company, L.L.C.
100 West Fifth Street
Tulsa, Oklahoma 74103

Re: CPF No. 3-2022-006-NOPV

Dear Mr. Norton:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of $12,300, and specifies actions that need to be taken by OkTex Pipeline Company, L.L.C., 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 e-mail is effective upon the date of transmission and acknowledgement of receipt as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

ALAN KRAMER MAYBERRY
Digitally signed by ALAN KRAMER MAYBERRY
Date: 2022.08.15 12:31:14 -04'00'

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Gregory A. Ochs, Director, Central Region, Office of Pipeline Safety, PHMSA
Mr. Scott D. Schingen, Senior Vice President, Operations, ONEOK, Inc.,
scott.schingen@oneok.com

Mr. Gary K. Numedahl, Director, DOT Compliance, ONEOK, Inc.,
gary.numedahl@oneok.com
Mr. Neal Jones, DOT Compliance Coordinator, ONEOK, Inc., neal.jones@oneok.com

CONFIRMATION OF 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	)	
	)	
OkTex Pipeline Company, L.L.C., a subsidiary of ONEOK, Inc.,	)	**CPF No. 3-2022-006-NOPV**
	)	
Respondent.	)	

FINAL ORDER

From April 21, 2021, through May 27, 2021, pursuant to 49 U.S.C. § 60117, representatives of 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 OkTex Pipeline Company, L.L.C. (OkTex or Respondent), a subsidiary of ONEOK, Inc.,[1] in El Paso, Texas. The OkTex inspection was performed on system #2690, which consists of approximately 106.5 miles of natural gas pipelines in El Paso, Texas, and various locations along the Texas/Oklahoma border.

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated April 18, 2022,[2] a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that OkTex had committed three violations of 49 C.F.R. Part 192, proposed assessing a civil penalty of $12,300 for the alleged violations, and proposed ordering Respondent to take certain measures to correct the alleged violations. The Notice also included an additional two warning items pursuant to 49 C.F.R. § 190.205, which warned the operator to correct the probable violations or face possible future enforcement action.

ONEOK, Inc., responded on behalf of OkTex to the Notice by letter dated May 16, 2022 (Response). The company did not contest the allegations of violation but provided information concerning the corrective actions it had taken. Respondent did not request a hearing and therefore has waived its right to one.

[1] US SEC Form 10-K, ONEOK, Inc., *available at* https://otp.tools.investis.com/clients/us/oneok_inc2/SEC/sec-show.aspx?Type=html&FilingId=15621391&CIK=0001039684&Index=10000 (last accessed August 4, 2022).

[2] The Notice letter is mistakenly dated April 18, 2021. The letter was signed and issued on April 18, 2022.

In its Response, Respondent, did not contest the allegations in the Notice that it violated 49 C.F.R. Part 192, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.465, which states:

> **§ 192.465 External corrosion control: Monitoring.**
> (a) Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of § 192.463. However, if those tests intervals are impracticable for separately protected short sections of mains or transmission lines, not in excess of 100 feet (30 meters), or separately protected service lines, these pipelines may be surveyed on a sampling basis. At least 10 percent of these protected structures, distributed over the entire system must be surveyed each calendar year, with a different 10 percent checked each subsequent year, so that the entire system is tested in each 10-year period.

The Notice alleged that Respondent violated 49 C.F.R. § 192.465 by failing to test each pipeline under cathodic protection (CP) at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the CP met the requirements of § 192.463. Specifically, the Notice alleged that OkTex did not consider IR drop as required at 48 test points on six pipeline segments for four years.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all the evidence, I find that Respondent violated 49 C.F.R. § 192.465(a) by failing to test each pipeline under CP at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the CP met the requirements of § 192.463.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.709, which states in relevant part:

> **§ 192.709 Transmission lines: Record keeping.**
> Each operator shall maintain the following records for transmission lines for the periods specified:
> (a) ....
> (c) A record of each patrol, survey, inspection, and test required by subparts L and M of this part must be retained for at least 5 years or until the next patrol, survey, inspection, or test is completed, whichever is longer.

The Notice alleged that Respondent violated 49 C.F.R. § 192.709 by failing to maintain records for each inspection for at least five years. Specifically, the Notice alleged that upon inspection of Respondent's overpressure control records, there were 34 inspection records that were not maintained at various facilities.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all the evidence, I find that Respondent violated 49 C.F.R. § 192.709(c) by failing to maintain records for each inspection for at least five years.

Item 5: The Notice alleged that Respondent violated 49 C.F.R. §192.947, which states in relevant part:

> **§ 192.947 What records must an operator keep?**
> An operator must maintain, for the useful life of the pipeline, records that demonstrate compliance with the requirements of this subpart. At minimum, an operator must maintain the following records for review during an inspection.
> (a) ....
> (d) Documents to support any decision, analysis and process developed and used to implement and evaluate each element of the baseline assessment plan and integrity management program. Documents include those developed and used in support of any identification, calculation, amendment, modification, justification, deviation and determination made, and any action taken to implement and evaluate any of the program elements;

The Notice alleged that Respondent violated 49 C.F.R. § 192.947 by failing to document the justifications and determinations made for the tool/assessment methods selected to maintain the pipeline's integrity. Specifically, the Notice alleged that Respondent conducted an annual review of its Continual Assessment Plan (CAP), but the checklist generated by the Respondent did not show any rationale for assessment methods chosen to address the threats of each segment.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all the evidence, I find that Respondent violated 49 C.F.R. § 192.947(d) by failing to document the justifications and determinations made for the tool/assessment methods selected to maintain the pipeline's integrity.

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.[3]

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

[3] These amounts are adjusted annually for inflation. *See* 49 C.F.R. § 190.223.

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 $12,300 for the violations cited above.

Item 3: The Notice proposed a civil penalty of $12,300 for Respondent's violation of 49 C.F.R. § 192.709(c), for failing to maintain records for each inspection for at least five years. Respondent neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of **$12,300** for violation of 49 C.F.R. § 192.709.

Payment of the civil penalty must be made within 20 days after receipt of this Final Order. 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 $12,300 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 Items 1 and 5 for violations of 49 C.F.R. §§ 192.465 and 192.947 respectively. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas 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 § 192.465 (Item 1), Respondent argued the compliance terms should be modified. Respondent argued that the recommended CIS for the reconsideration of IR of the annual surveys will not provide adequate results as the short line segments at issue are anode protected. Respondent stated that the CIS requires the ability to interrupt the current source to determine the instant off potential, which is not possible. Respondent, therefore, proposed an alternative method to install corrosion coupons and test stations to demonstrate the effectiveness of the of the CP on the anode protected pipeline segments.

Based on my review of Respondent's alternative method to demonstrate the effectiveness of the

CP on the anode protected pipelines, I find Respondent's proposed alternative to be acceptable. Accordingly, the Compliance Order is modified 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 § 192.465 (**Item 1**), Respondent must install the following coupon test stations:

   - BNT04A-100 – Gillette 2" Lateral - 0.57miles – 3 test point coupon stations;
   - BNT04B-100 – Gato 2" Lateral – 0.1 miles – 3 test point coupon stations;
   - MNT04-1 – Norteno #4 – 3.73 miles – 17 test point coupon stations;
   - MNT05-1 – Norteno #5 – 1.1 miles – 5 test point coupon stations;
   - OK-02 – 2.50 miles – 6 test point coupon stations; and
   - OK-03 – 1.75 Miles – 4 test point coupon station.

   Respondent must complete this installation within **180 days** of receipt of the Final Order.

2. With respect to the violation of § 192.947 (**Item 5**), Respondent must review its CAP and submit documentation describing the justification and rationale for each assessment method selected to address the identified threats on the covered pipeline segments within **90 days** of receipt of the Final Order.

3. When Proposed Compliance Order items extend beyond 90 days to complete, Respondent must begin and continue submitting quarterly reports until all work necessary to implement the Compliance Order items is complete and the Final Order is closed. Quarterly reports shall be submitted to Gregory A. Ochs, Director, OPS Central Region, Pipeline and Hazardous Materials Safety Administration.

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.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed $200,000, as adjusted for inflation (*see* 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.

WARNING ITEMS

With respect to Items 2 and 4, the Notice alleged probable violations of Part 192, but identified them as warning items pursuant to § 190.205. The warnings were for:

> 49 C.F.R. § 192.709(c) **(Item 2)** ─ Respondent's alleged failure to maintain records of each patrol, survey, inspection, and test required by subparts Land M for at least five years or until the next patrol, survey, inspection, or test is completed, whichever is longer; and

> 49 C.F.R. § 192.917(b) **(Item 4)** ─ Respondent's alleged failure to gather and integrate existing data and information on the entire pipeline that could be relevant to the covered segment.

If OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

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. The written petition must be received no later than 20 days after receipt of the 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.

ALAN KRAMER MAYBERRY
Digitally signed by ALAN KRAMER MAYBERRY
Date: 2022.08.15 12:30:52 -04'00'

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

August 15, 2022
Date Issued