U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Ave., SE
Washington, DC 20590

OCT 12 2010

Mr. R. Tim Bradley
President
Kinder Morgan CO_2 Company, L.P.
500 Dallas Street, Suite 1000
Houston, TX 77002

Re: CPF No. 4-2006-5003

Dear Mr. Bradley:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a reduced civil penalty of $25,000, and specifies actions that need to be taken by Kinder Morgan CO_2 Company, L.P., 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, Southwest Region, this enforcement action will be closed. 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. Jeffrey R. Roper, Assistant General Counsel for Kinder Morgan Energy Partners, L.P.
Mr. R.M. Seeley, Director, Southwest Region, PHMSA

CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7009 1410 0000 2472 2933]

U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590

In the Matter of	)	
Kinder Morgan CO_2 Company, L.P., formerly Kinder Morgan CO_2 Logistics Operations, L.P.,	)	**CPF No. 4-2006-5003**
Respondent.	)	

FINAL ORDER

On June 28 – July 2, 2004, and October 18 – 22, 2004, 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 facilities and records of Kinder Morgan CO_2 Company, L.P. (Respondent or $KMCO_2$),[1] in Texas, New Mexico, and Colorado. The inspection covered facilities and records pertaining to portions of Respondent's Cortez, Central Basin (CB), and Canyon Reef Carriers (CRC) pipeline systems. These pipelines are used to transport carbon dioxide liquid. The Cortez system includes approximately 557 miles of pipeline running from Cortez, Colorado, to Denver City, Texas. The CB and CRC systems include approximately 482 miles of pipeline in western Texas.

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated January 20, 2006, 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 Respondent had violated 49 C.F.R. §§ 195.410(a)(1), 195.420(c), 195.573(a)(1) and 195.579(a), assessing a civil penalty of $35,000 for the alleged violations, and ordering Respondent to take certain measures to correct the alleged violations.

$KMCO_2$ responded to the Notice by letter dated February 17, 2006 (Response). Respondent contested all the allegations and requested a hearing, which was subsequently held on August 16, 2006, in Houston, Texas, with an attorney from the Office of Chief Counsel, PHMSA, presiding. Respondent provided numerous documents at the hearing (Hearing Exhibits), which have been incorporated into the record. Respondent was represented by counsel in this matter. After the hearing, Respondent provided additional information for the record on September 14, 2006 (Closing).

[1] The Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order was issued to Kinder Morgan CO_2 Logistics Operations, L.P. That entity is now known as Kinder Morgan CO_2 Company, L.P., and is a subsidiary of Kinder Morgan Energy Partners, L.P.

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. § 195.410(a)(1), which states:

> **§ 195.410 Line markers.**
> (a) Except as provided in paragraph (b) of this section, each operator shall place and maintain line markers over each buried pipeline in accordance with the following:
> (1) Markers must be located at each public road crossing, at each railroad crossing, and in sufficient number along the remainder of each buried line so that its location is accurately known.

The Notice alleged that $KMCO_2$ violated 49 C.F.R. § 195.410(a)(1) by failing to place and maintain line markers over its Cortez, CB, and CRC pipelines in sufficient number that the location of the lines was accurately known. Specifically, it alleged that when crossing cultivated agricultural fields, the markers on the far side of a field often could not be seen. The Notice also alleged that from valve sites, the next marker for the pipeline was not visible.

$KMCO_2$ objected to the so-called "line-of-sight" test used by OPS to determine the adequacy of Respondent's pipeline marking in cultivated fields.[2] PHMSA acknowledges that while many operators follow the so-called "line-of-sight" test, as applied in the Notice in this case, many others do not. Furthermore, the regulation does not expressly require "line-of-sight." In an effort to arrive at greater consensus on this and other line-marking issues, PHMSA convened a public workshop in 2008[3] and is currently considering whether to issue a notice of proposed rulemaking. Under such circumstances, I find it appropriate to withdraw this allegation of violation. Such withdrawal neither constitutes an interpretation of § 195.410(a)(1) nor prejudices future potential enforcement action against Respondent or any other operator.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.420(c), which states:

> **§ 195.420 Valve maintenance.**
> (a) ....
> (c) Each operator shall provide protection for each valve from unauthorized operation and from vandalism.

The Notice alleged that $KMCO_2$ violated 49 C.F.R. § 195.420(c) by failing to provide protection from vandalism for a large number of the Cortez, CB, and CRC pipeline valves. Specifically, it alleged that while many of the valves had pipe post-and-beam enclosures, such enclosures did not provide protection from vandalism. The Notice also alleged that some valves that were inspected had no enclosure or fence whatsoever.

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[2] *Response* at 2.

[3] PHMSA held a public workshop on February 20-21, 2008, in Houston, Texas, to discuss, among other issues, the placement of line markers. *Pipeline Safety: Workshop on Public Awareness Programs for Pipeline Operators and Location of Line Markers,* 73 Fed. Reg 223 (Jan.2, 2008).

$KMCO_2$ contested this item, arguing that its unfenced valves were protected by chains and locks to prevent unauthorized operation. The company contended that it had evaluated each of these sites and determined that it was not necessary to fence them in order to discourage vandalism.[4] However, there is no evidence in the record to support this argument.

According to Respondent, the Notice alleged that fencing was necessary at all valve sites.[5] The company contended that any interpretation requiring fencing at all valve sites would be a new interpretation of the regulation, for which $KMCO_2$ had not received fair notice.[6] I read the regulation and the Notice differently. The regulation plainly does not require fencing at all valve sites; rather, it requires that an operator provide "protection for each valve from unauthorized operation and from vandalism." Because I agree that the regulation does not require the fencing of all valve sites, it is unnecessary to reach Respondent's fair notice argument.

Respondent further argued that these valves had been in operation for 34 years with no incidents of vandalism, and that this was evidence that chains and locks were adequate to protect against vandalism.[7] The company argued that it attempts to preserve the property on which valves are located for the landowner's use and that it tries not to build unnecessary structures around valves in a manner that would disrupt the landowner's use of the property.[8] This argument, however, is unpersuasive. The regulation does not contain an exception to the valve protection requirement based on the underlying use of the land on which the valve is located.

$KMCO_2$ has flexibility under the regulation to provide protection for valves from unauthorized operation and vandalism in various ways. Inherent in such flexibility, however, is the need for operators to show that they have considered the particular circumstances at each valve site and have determined the specific measures that are necessary to protect each valve from vandalism. Depending on the analysis of threats at a particular valve site, a variety of different protective measures may be appropriate, including, but not limited to, post-and-beam enclosures, fencing, concertina wire, alarms, video monitoring, rock/brick or wooden walls, or combinations of these measures. Without some type of documented process for evaluating the on-site conditions and evidence that the necessary measures have been satisfactorily implemented, neither Respondent nor PHMSA can determine whether the company has provided adequate protection for each valve site. At the time of the inspection, $KMCO_2$ had no documented process for determining valve site protection, nor did the company provide any evidence as to how it had otherwise evaluated valve sites for this purpose. In its Closing, Respondent provided updated procedures that included a process for valve site protection, but such updated procedures were not in effect as of the date of the inspection.[9]

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[4] *Response* at 3.

[5] *Response* at 3.

[6] *Closing* at 2.

[7] *Response* at 3.

[8] *Id.*

[9] *Closing* at 2; Attachment #1 at 2; and Attachment #3.

Based on the foregoing, I find that $KMCO_2$ violated 49 C.F.R. § 195.420(c) by failing to provide protection from vandalism for a large number of the Cortez, CB, and CRC pipeline valves.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.573(a)(1), which states:

> **§ 195.573 What must I do to monitor external corrosion control?**
>
> (a) *Protected pipelines.* You must do the following to determine whether cathodic protection required by [Subpart H] complies with § 195.571:
>
> (1) Conduct tests on the protected pipeline at least once each calendar year, but with intervals not exceeding 15 months. However, if tests at those intervals are impractical for separately protected short sections of bare or ineffectively coated pipelines, testing may be done at least once every 3 calendar years, but with intervals not to exceed 39 months.

The Notice alleged that $KMCO_2$ violated 49 C.F.R. § 195.573(a)(1) by failing to properly conduct tests on its cathodically protected pipelines. Specifically, it alleged that $KMCO_2$ failed to consider "IR drop" during the annual corrosion testing on its Cortez, CB, and CRC pipeline systems.[10]

The primary purpose of the annual testing required by § 195.573(a)(1) is to provide an operator with information about whether it is providing adequate cathodic protection to its pipelines. Such information allows an operator to take action to remedy any inadequate cathodic protection. $KMCO_2$'s cathodic protection must comply with one or more of the applicable criteria and other considerations for cathodic protection contained in paragraphs 6.2 and 6.3 of NACE Standard RP0169-2002 (NACE Standard)[11] (incorporated by reference, *see* § 195.3), and required under 49 C.F.R. § 195.571.

Cathodic protection can limit external corrosion on buried pipelines through the application of direct electric current to the metal of the pipeline. Protection is achieved when current flows to the metal in an amount sufficient to prevent the loss of metal from the pipeline to the surrounding environment. If insufficient current is provided, corrosion can result. The NACE Standard provides reference criteria against which an operator can measure the flow of current to or from its pipelines (pipe-to-soil potential).

In order to obtain an accurate reading of pipe-to-soil potential, an operator must consider IR drop when it conducts annual tests of its cathodic protection system. Paragraph 6.2 of the NACE Standard sets out four methods for considering IR drop. If IR drop is not considered, cathodic protection may appear to meet the criteria required by § 195.571, when, in fact, it does not. Therefore, when IR drop is not considered in the annual cathodic protection surveys, such surveys do not achieve their intended purpose and do not comply with § 195.573(a).

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[10] *Notice* at 2. IR drop is an error in the pipe-to-soil voltage measurement caused by the electrical resistance of the soil in which the pipeline is buried.

[11] NACE INTERNATIONAL, NACE STANDARD RP0169-2002 CONTROL OF EXTERNAL CORROSION ON UNDERGROUND OR SUBMERGED METALLIC PIPING SYSTEMS [hereinafter, NACE STANDARD].

The four methods (Methods) set forth in Paragraph 6.2 of the NACE Standard state, in relevant part:

> *Note: Consideration is understood to mean the application of sound engineering practice in determining the significance of [IR] drops by methods such as:*
>
> *6.2.2.1.1.1 Measuring or calculating the [IR] drop(s);*
>
> *6.2.2.1.1.2 Reviewing the historical performance of the cathodic protection system;*
>
> *6.2.2.1.1.3 Evaluating the physical and electrical characteristics of the pipe and its environment; and*
>
> *6.2.2.1.1.4 Determining whether or not there is physical evidence of corrosion.*

In its Response, $KMCO_2$ asserted that the Notice described a violation of § 195.571, which requires that cathodic protection meet the criteria in the NACE Standard, rather than § 195.573, which requires testing of the cathodic protection to ensure that it complies with those criteria.[12] I disagree. The Notice stated that $KMCO_2$ had "not conducted their annual corrosion survey to account for IR drop in their readings."[13] The allegation is not that the cathodic protection failed to satisfy the NACE Standard, but that the manner by which $KMCO_2$ performed annual testing of its cathodic protection did not meet the requirements of § 195.573.

$KMCO_2$ argued that IR drop considerations "are primarily performed using on/off close interval surveys of its cathodic protection systems" and submitted records to show that IR drop was considered in its annual surveys.[14] Such records, however, do not demonstrate that IR drop was considered in accordance with one of the Methods in the NACE Standard.[15] Each of the additional records submitted by Respondent for the facilities listed below is addressed as follows:

- Centerline Pipeline:
  - A close interval survey (CIS) of the pipeline.
    These records are irrelevant since Centerline was not a subject of the Notice.

- CB Pipeline:
  - A close interval survey from 2005.
    This document is immaterial since the survey was conducted after the date of the OPS inspection.

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[12] *Response* at 4.

[13] *Notice* at 2.

[14] *Closing* at 3.

[15] NACE STANDARD 6.2.2.1.1.

- Rectifier readings with "instant off" pipe-to-soil readings. These records fail to reflect how IR drop was considered.

- CRC Pipeline:
  - A CIS from June 2005. This document is immaterial since the survey was conducted after the date of the OPS inspection.[16]

- Cortez Pipeline:
  - Close interval surveys of portions of pipeline from 1996-1998, long before the time period at issue in this case;
  - A CIS completed after the OPS inspection;
  - A CIS of a 10-mile section of the pipeline that was done in November 2003;
  - A CIS of a 75-mile section of the pipeline which was performed in 2004;
  - Annual surveys of the pipeline for 2002 to 2005, but with no indication of how IR drop was considered; and
  - Rectifier readings with "instant off" pipe-to-soil readings, but with no indication of how IR drop was considered.

None of these records demonstrates that $KMCO_2$ considered IR drop in accordance with Paragraph 6.2 of the NACE Standard when performing annual cathodic protection surveys. Accordingly, I find that $KMCO_2$ violated 49 C.F.R. § 195.573(a) by failing to properly conduct tests on its cathodically protected Cortez, CB, and CRC pipeline systems.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 195.579(a), which states:

> **§ 195.579 What must I do to mitigate internal corrosion?**
> (a) General. If you transport any hazardous liquid or carbon dioxide that would corrode the pipeline, you must investigate the corrosive effect of the hazardous liquid or carbon dioxide on the pipeline and take adequate steps to mitigate internal corrosion.

The Notice alleged that $KMCO_2$ violated 49 C.F.R. § 195.579(a) by failing to investigate the corrosive effects of the carbon dioxide liquid transported on its Cortez, CB, and CRC pipelines and facilities. In the Violation Report prepared in support of the Notice, OPS asserted that $KMCO_2$ had not performed inspections on dead legs, low points, non-piggable pipe, or pipes downstream of supplier taps.[17] OPS further noted that the CRC pipeline transported carbon dioxide containing hydrogen sulfide and therefore that it would be particularly susceptible to erosion at ells and direction changes, but that $KMCO_2$ had not considered this additional risk factor.[18] $KMCO_2$ contested these allegations and argued that the carbon dioxide transported in

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[16] This close interval survey showed that significant sections of the CRC pipeline did not meet NACE criteria.

[17] *Violation Report* at 6.

[18] *Violation Report* at 6.

its pipelines was not corrosive, and that the long-term absence of internal corrosion on these pipelines was proof that the product being transported was not corrosive.[19]

I reject this argument. The current version of Part 195 of title 49, Code of Federal Regulations, was established pursuant to the Hazardous Liquid Pipeline Safety Act of 1979 (Pub. L. 96-129)(Act). The purpose of the Act and the regulations promulgated thereunder is to provide adequate protection against risks to life, property and the environment that are posed by the transportation of hazardous liquids and carbon dioxide. The regulations cover the design, construction, operation, maintenance and emergency response requirements for hazardous liquid and carbon dioxide pipeline facilities. A major goal of the regulations is to ensure that pipeline operators prevent and control corrosion in their pipeline systems, one of the major causes of pipeline failures. Operators transporting hazardous liquid and carbon dioxide are obligated to recognize and address corrosion and to prevent corrosion-related leaks and failures on their pipelines.

The phrase "carbon dioxide that would corrode the pipeline," as used in § 195.579(a), must be construed in a manner that gives effect to the purpose and intent of the Act and the Part 195 regulations. The intent of this section is to ensure that harmful leaks of hazardous liquid and carbon dioxide caused by internal corrosion are prevented. To accomplish this objective, pipeline operators are required to monitor their pipelines wherever causes of internal corrosion could be present and to take appropriate actions to minimize the corrosion in a manner that prevents leaks and other hazards. Known causes of internal corrosion include certain materials commonly found in pipeline systems, including hydrogen sulfide, water, sediments and microbes that may cause or contribute to internal corrosion. Water can combine with carbon dioxide and form carbonic acid. It is well documented that carbonic acid is corrosive to steel. Other factors can also serve to amplify the corrosive effects of these materials, such as low spots and locations where the hazardous liquid does not have sufficient velocity to carry away water and sediments.

In this case, $KMCO_2$ failed to investigate dead legs, low points, non-piggable pipe, and pipes located downstream of supplier taps. Therefore, internal corrosion could be present and continuing at these locations. Any number of changes or upsets in upstream processes could introduce water or other corrosive materials into the liquid stream. In addition, Respondent's CRC pipeline transported carbon dioxide containing hydrogen sulfide, a known contributor to corrosion. Therefore, I find that $KMCO_2$ transports a hazardous liquid that would corrode the pipeline.

Respondent further argued that corrosion coupon records from the Cortez pipeline "indicated no corrosion potential."[20] However, corrosion coupons only provide a localized indication of corrosion. $KMCO_2$ also stated that pipe segments from the CRC pipeline which the company had removed from service and had inspected "indicated no internal corrosion."[21] Such evidence, again, is not probative since such segments are not likely to show signs of corrosion if they are not from areas that are susceptible to corrosion.

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[19] *Response* at 5; *Closing* at 5.

[20] *Response* at 5.

[21] *Id.*

$KMCO_2$ also stated that its maintenance history of pipeline pumps on the Cortez, CB, and CRC pipelines "[has] not indicated any corrosion products in the CO_2 being pumped."[22] I fail to find such anecdotal evidence convincing. Indications of corrosion in a carbon dioxide system may be very subtle and easily missed. An absence of such indicators during routine maintenance does not constitute evidence that $KMCO_2$ had conducted any sort of actual investigation into the corrosive effect of the carbon dioxide being transported.

As discussed above, any number of changes or upsets in upstream processes may introduce corrosive materials into the carbon dioxide liquid, despite $KMCO_2$'s efforts. To account for potential changes or upsets, $KMCO_2$ must investigate the corrosive effects of the carbon dioxide liquids transported in its pipelines on a continuing basis.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.579(a) by failing to investigate the corrosive effects of the carbon dioxide liquid being transported on its pipeline.

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 $100,000 per violation for each day of the violation, up to a maximum of $1,000,000 for any related series of violations.

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; 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 $35,000 for the violations cited above.

Item 1: The Notice proposed a civil penalty of $10,000 for Respondent's violation of 49 C.F.R. § 195.410(a)(1), for failing to place and maintain line markers over its pipelines in sufficient number that the location of the lines was accurately known. Having withdrawn this allegation of violation, I hereby withdraw the penalty proposed for this item.

Item 3: The Notice proposed a civil penalty of $25,000 for Respondent's violation of 49 C.F.R. § 195.573(a), for failing to properly conduct tests on its cathodically protected Cortez, CB, and CRC pipeline systems. As discussed above, I found that $KMCO_2$ had failed to consider IR drop when performing annual tests of its cathodic protection system. As a result, Respondent may not

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[22] *Id.*

have had an accurate understanding of the effectiveness of such system. Inadequate cathodic protection may lead to external corrosion, which can result in pipeline leaks or failures. This violation continued for many days, yet the amount of the proposed penalty is far below the limit of $100,000 per violation per day. Regarding the nature, circumstances and gravity of the violation, the proposed penalty also took into account that no pipeline failures or spills were associated with the violation. $KMCO_2$ has not presented any other evidence or argument justifying a reduction or elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of $25,000 for violation of 49 C.F.R. § 195.573(a).

In summary, having reviewed the record and considered the assessment criteria for the Item cited above, I assess Respondent a reduced total civil penalty of **$25,000**.

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, OK 73125. The Financial Operations Division's telephone number is (405) 954-8893.

Failure to pay the $25,000 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, 2, 3, and 4 in the Notice for violations of 49 C.F.R. §§ 195.410(a)(1), 195.420(c), 195.573(a)(1), and 195.579(a), respectively. Having withdrawn the allegation of violation for Item 1, this Final Order contains a compliance order only for Items 2, 3 and 4.

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. 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 § 195.420(c) (**Item 2**), within 30 days from receipt of this Final Order, Respondent must perform an audit to ensure compliance with § 195.420(c). During this audit, Respondent must: (1) review all applicable procedures; (2) amend them as necessary to prevent future non-compliance with the regulation; and (3) survey each of the valve sites on the pipeline systems subject to the Notice for compliance with the applicable amended procedures and the regulation. Based on the results of the audit,

$KMCO_2$ must develop and implement a plan and schedule for the replacement or installation of appropriate protective measures at each valve site, according to Respondent's consistent application of the amended procedures. $KMCO_2$ shall base the plan on the results of the review and amendment of procedures and the survey. Any replacement or installation of protective measures shall be completed within one year from receipt of this Final Order.

2. With respect to the violation of § 195.573(a)(1) (**Item 3**), within 30 days from receipt of this Final Order, Respondent must review its cathodic protection program and make any changes necessary to ensure that IR drop is being considered in accordance with the criteria in Paragraph 6.2 of the NACE Standard and the findings in this Final Order. After changes are made to account for IR drop and within one year from receipt of this Final Order, determine whether all areas of the Cortez, CB, and CRC pipelines are receiving adequate cathodic protection.

3. With respect to the violation of § 195.579(a) (**Item 4**), within 90 days from receipt of this Final Order, Respondent must perform an audit to ensure $KMCO_2$ is in compliance with § 195.579(a). During this audit, Respondent must: (1) review all applicable procedures; (2) amend them as necessary to prevent future non-compliance with the regulation; and (3) survey all applicable segments of $KMCO_2$'s pipelines to ensure that inspection, testing, and monitoring for internal corrosion follow these procedures. Within one year from receipt of this Final Order and based on the results of the audit, $KMCO_2$ must develop and implement a plan for conducting internal corrosion surveys to ensure that the company remains in compliance with § 195.579(a).

4. Respondent must maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit that total to the Director, Southwest Region, PHMSA. Costs shall be reported in two categories: (1) total cost associated with preparation and revision of plans, procedures, studies and analyses; and (2) total cost associated with replacements, additions and other changes to pipeline infrastructure.

5. Respondent must submit all required analyses, results, reviews, plans, timetables, and documentation of compliance with the requirements of this Compliance Order to: Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration, 8701 South Gessner, Suite 1110, Houston, Texas 77074.

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.

Failure to comply with this Order may result in administrative assessment of civil penalties not to exceed $100,000 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. § 190.215, Respondent has a right to submit a Petition for Reconsideration of this Final Order. The petition must be sent to: 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. PHMSA will accept petitions received no later than 20 days after receipt of service of this Final Order by the Respondent, provided they contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.215. The filing of a petition automatically stays the payment of any civil penalty assessed. Unless the Associate Administrator, upon request, grants a stay, all other 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 12 2010
Date Issued