

September 17, 2021

VIA ELECTRONIC MAIL TO: jason.smith@magellanlp.com

Mr. Jason Smith
Vice President, Asset Integrity
Magellan Pipeline Company, LP
One Williams Center, MD 27
Tulsa, Oklahoma 74172

Re: CPF No. 4-2020-5012

Dear Mr. Smith:

Enclosed please find the Final Order issued in the above-referenced case. It withdraws one of the allegations of violation, makes a finding of violation, includes two warning items, and finds that Magellan Pipeline Company, LP has completed the actions specified in the Notice to comply with the pipeline safety regulations. Therefore, this case 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. Service of the Final Order by e-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: Ms. Mary McDaniel, Director, Southwest Region, Office of Pipeline Safety, PHMSA
Mr. Mark Materna, Director, Pipeline Integrity, Magellan Pipeline Company, LP,
mark.materna@magellanlp.com
Mr. R. Daniel Scroggins, Senior Attorney, Magellan Midstream Partners, LP,
danny.scroggins@magellanlp.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	)	
	)	
Magellan Pipeline Company, LP,	)	CPF No. 4-2020-5012
	)	
Respondent.	)	
	)	

FINAL ORDER

From September 20, 2019, through February 14, 2020, 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 Magellan Pipeline Company, LP's (Magellan or Respondent) Orion West Pipeline Construction Project at various field locations in Texas and at Magellan headquarters in Tulsa, Oklahoma. The Orion West pipeline has about 430 miles of pipeline that moves refined petroleum products near Corsicana, Texas to Odessa, Texas. This construction project involved an increase in capacity (50,000 additional barrels per day) on the existing Orion West refined products system through replacement of about 140 miles of pipeline segments and upgrade or installation of pumping capacity.

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated September 18, 2020, 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 Magellan had committed two violations of 49 C.F.R. Part 195, proposed assessing a civil penalty of \$50,100 for one of 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 required no further action, but warned the operator to correct the probable violations or face possible future enforcement action.

After requesting and receiving an extension of time to respond, Magellan responded to the Notice by letter dated November 20, 2020 (Response). Magellan contested all of the allegations and requested a hearing. By e-mail dated February 17, 2021, Respondent withdrew its request for a hearing and thereby authorized the entry of this Final Order without further notice.

FINDING OF VIOLATION

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.202, which states:

§ 195.202 Compliance with specifications or standards.

Each pipeline system must be constructed in accordance with comprehensive written specifications or standards that are consistent with the requirements of this part.

The Notice alleged that Respondent violated 49 C.F.R. § 195.202 by failing to construct its Orion West pipeline in accordance with comprehensive written specifications or standards consistent with the requirements of Part 195, and also failing to follow its written construction specification when Magellan's welding inspector was found to be using an incorrect version of the Magellan Specification 100. Specifically, the Notice alleged that Magellan failed to verify and document the welding parameters as required by its specification, and further, that Magellan's welding inspector was using an incorrect version of the written construction specification.

In its Response, Magellan initially contested this allegation of violation and requested a hearing on the issues. Subsequent to its Response, Magellan withdrew its hearing request on this Item and stated that it was no longer contesting the allegation of violation.¹

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.202 by failing to verify and document the welding parameters as required by its specification, and failing to ensure that its welding inspector was using the correct version of the written construction specification.

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

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.202, which states:

§ 195.202 Compliance with specifications or standards.

Each pipeline system must be constructed in accordance with comprehensive written specifications or standards that are consistent with the requirements of this part.

The Notice alleged that Respondent violated 49 C.F.R. § 195.202 by failing to construct its Orion West pipeline in accordance with comprehensive written specifications or standards consistent with the requirements of Part 195. Specifically, Magellan failed to install its newly constructed Orion West pipeline in the ditch consistent with the requirements of §§ 195.246 and 195.252. Moreover, Section 6.0 of Magellan's Specification "Padding, Backfill, and Ditch Breakers, Revision 2, dated 05/20/2015," requires the installation of a rock shield or use of padding to protect the pipeline from damage in rocky areas. The Notice alleged that on September 19, 2019, at County Road (CR) 209 in Callahan County, Texas, PHMSA observed

¹ Magellan hearing request withdrawal e-mail, dated February 17, 2012 (on file with PHMSA).

that the pipe had been lowered into the ditch in a rocky area with no rock shield or padding. In addition, the rocks in the spoil from trenching had not been segregated from the material to be used for backfilling.

In its Response, Magellan asserted that it complied with §§ 195.202, 195.246, and 195.252, and requested that this item be withdrawn along with the associated Proposed Civil Penalty and Proposed Compliance Order. Magellan explained that during the field inspection on September 19, 2019, the PHMSA inspector visited an active pipeline construction site at CR 209. The construction site at CR 209 was observed to have an open construction ditch with new pipe as noted by the inspector and was not yet backfilled.

According to Magellan, the pipeline construction was installed via road bore and tied into a section of lowered in pipe with proper ditch padding and rock shield installed. The pipe without rock shield was coated in Abrasion Resistant Overcoating, which was presented as evidence of the road bore installation method. Magellan explained that there is no practical method to effectively install a pipeline via road bore with rock shield installed, nor is it required by Magellan's procedure due to the installation method. The "Padding, Backfill, and Ditch Breaker" specification also states, "Immediately before padding and backfilling, ditch and backfill material shall be inspected and rocks, large clods, stumps, skids, trash and other foreign material shall be removed." Magellan applied rock shield to the road bore piping and inspected the backfill material prior to backfilling the open excavation at CR 209.

Based upon daily reports and photos from the construction project, Magellan claimed it had supporting evidence that the pipeline constructed in this area was installed per Magellan's Specification "Padding, Backfill, and Ditch Breaker." Therefore, Magellan argued that the location identified by the PHMSA inspector was properly protected with rock shield and spoils were inspected prior to backfilling the construction site at CR 209.

Magellan provided supportive photographic evidence showing the pipeline segment at issue with rock shield installed prior to backfilling the open excavation in a PDF format in its Response, as well as JPEG format on February 9, 2021. In the Regional Director's written evaluation of the response material submitted by Respondent, they recommended Item 3 be withdrawn.

Accordingly, after considering all of the evidence, I find that Magellan did not violate the regulation as alleged in the Notice. Although photographic records were not available at the time of the inspection, Magellan did provide documentary evidence of compliance on February 9, 2021. Based upon the foregoing, I hereby order that Item 3 of the Notice be withdrawn.

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

² These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223.

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 \$50,100 for Item 3 cited above.

Item 3: The Notice proposed a civil penalty of \$50,100 for Respondent's alleged violation of 49 C.F.R. § 195.202. Since this alleged violation has been withdrawn, the proposed penalty is not assessed.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1 and 3 in the Notice for violations of 49 C.F.R. § 195.202. 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. The Director indicates that Respondent has taken the following actions specified in the proposed compliance order:

1. With respect to the violation of § 195.202 (**Item 1**), Respondent has completed the corrective actions proposed in the Notice. Specifically, Magellan provided records showing that welding parameters had been recorded for the welding activities at the De Leon pump station.
2. With respect to the violation of § 195.202 (**Item 3**), this Item is withdrawn along with the proposed compliance order actions.

Accordingly, I find that compliance has been achieved. Therefore, the compliance terms proposed in the Notice are not included in this Order.

WARNING ITEMS

With respect to Items 2 and 4, the Notice alleged probable violations of Part 195, but identified them as warning items pursuant to § 190.205. The warnings were for:

49 C.F.R. § 195.202 (**Item 2**) — Respondent's alleged failure to construct its Orion West pipeline in accordance with comprehensive written specifications or standards consistent with the requirements of Part 195. Specifically, the Notice alleged that Magellan failed to follow its written specification for hydrostatic testing to require the review and approval of hydrostatic test documentation by the

Project Engineer, Test Supervisor, and Test Inspector. Section 3.9.4.5 of Magellan Specification 7.07-ADM-001 – Pressure Testing Specification, Revision 4 dated 11/02/2016, requires the Hydrostatic Test Form 07-FORM-0013 be completed and signed by the specified project personnel. After PHMSA communicated this inspection finding to Magellan, the Operator subsequently signed the forms and provided copies to PHMSA via e-mail; and

49 C.F.R. § 195.228 (**Item 4**) — Respondent’s alleged failure to perform visual inspections of production welds. On January 8, 2020, at the De Leon pump station, the PHMSA inspector observed that several welds were completed without the welding inspector performing visual inspections. Additionally, at the time of the inspection, the welding inspector was unable to provide records showing that visual inspections had been performed on previously completed welds.

Magellan requested withdrawal of Item 2 because it stated that its procedure 7.03-ADM-001 - Pressure Testing requires the Project Manager, under section 3.10.4.5, to complete and sign the hydrostatic test section documentation, but intentionally does not require a time frame regarding the signing of Page 4 by the Project Manager. According to Magellan, at the time of the hydrostatic testing, the Project Manager provided written acceptance and approval of the test over e-mail but had yet to sign the Page 4 hydrostatic test form. A copy of the e-mail approval and signed Page 4 documentation were provided to the PHMSA inspector in accordance with the requirement in 7.03-ADM-001 during the inspection.

Magellan requested withdrawal of Item 4 because it had previously submitted documentation to PHMSA that visual inspection as well as non-destructive testing were performed on each weld on the day in question.

Under § 190.205, PHMSA does not adjudicate warning items to determine whether a probable violation occurred. If OPS finds a violation of any of these items 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.

September 17, 2021

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued