

**NOTICE OF PROBABLE VIOLATION
and
PROPOSED CIVIL PENALTY**

VIA E-MAIL TO MR. DAX SANDERS

December 1, 2022

Mr. Dax Sanders
President – Products Pipeline
Kinder Morgan, Inc.
1001 Louisiana St., Suite 1000
Houston, TX 77002

CPF 5-2022-057-NOPV

Dear Mr. Sanders:

On August 26, 2022, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected the Safety Related Conditions (SRC) Report that was submitted online to PHMSA by SFPP, L.P.¹ on August 24, 2022.

As a result of the inspection, it is alleged that you have committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The item inspected and the probable violation is:

1. § 195.56 Filing safety-related condition reports.

(a) Each report of a safety-related condition under § 195.55(a) must be filed (received by OPS) within five working days (not including Saturday, Sunday, or Federal Holidays) after the day a representative of the operator first determines

¹ SFPP, L.P. is a subsidiary of Kinder Morgan, Inc.

that the condition exists, but not later than 10 working days after the day a representative of the operator discovers the condition. Separate conditions may be described in a single report if they are closely related. Reports may be transmitted by electronic mail to InformationResourcesManager@dot.gov, or by facsimile at (202) 366-7128.

SFPP, L.P. failed to submit its SRC Report within five working days after the existence of a condition was determined and no later than 10 working days after the condition was discovered. Specifically, SFPP L.P.'s filed SRC Report indicated that the discovery date was July 27, 2022 and the determination date was August 3, 2022.² Therefore, the SRC Report should have been filed no later than August 10, 2022. However, the SRC Report was not filed by SFPP, L.P. until August 24, 2022.³

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,412 for a related series of violations. For violation occurring on or after May 3, 2021 and before March 21, 2022, the maximum penalty may not exceed \$225,134 per violation per day the violation persists, up to a maximum of \$2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021 and before May 3, 2021, the maximum penalty may not exceed \$222,504 per violation per day the violation persists, up to a maximum of \$2,225,034 for a related series of violations. For violation occurring on or after July 31, 2019 and before January 11, 2021, the maximum penalty may not exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violation occurring on or after November 2, 2015 and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022.

We have reviewed the circumstances and supporting documentation involved for the above probable violation and recommend that you be preliminarily assessed a civil penalty of \$36,200 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$36,200

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement Proceedings*. Please refer to this document and note the response options. All material you submit in response to this enforcement action may be made publicly available. If

² See Pipeline Safety Violation Report at Exhibit A, pg. 1 (on file with PHMSA).

³ *Id.*

you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from the receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 5-2022-057-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Dustin Hubbard
Director, Western Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

Enclosure: *Response Options for Pipeline Operators in Enforcement Proceedings*

cc: PHP-60 Compliance Registry
PHP-500 A. Ceartin (#22-253086)