

WARNING LETTER

VIA ELECTRONIC MAIL TO: MR. WAYNE SIMMONS

November 1, 2023

Mr. Wayne Simmons
Chief Operating Officer
Kinder Morgan
1001 Louisiana St., Suite 1000
Houston, TX 77002

CPF 5-2023-034-WL

Dear Mr. Simmons:

From July 10, 2023, to July 13, 2023, of the on-site inspection, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected the SFPP Oregon pipeline from Portland to Eugene, Oregon.

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. § 195.59 Abandonment or deactivation of facilities.

For each abandoned offshore pipeline facility or each abandoned onshore pipeline facility that crosses over, under or through a commercially navigable waterway, the last operator of that facility must file a report upon abandonment of that facility.

(a) The preferred method to submit data on pipeline facilities abandoned after October 10, 2000 is to the National Pipeline Mapping System (NPMS) in accordance with the NPMS “Standards for Pipeline and Liquefied Natural Gas Operator Submissions.” To obtain a copy of the NPMS Standards, please refer to the NPMS homepage at <http://www.npms.phmsa.dot.gov> or contact the NPMS National Repository at 703–317–3073. A digital data format is preferred, but hard copy submissions are acceptable if they comply with the NPMS Standards. In addition to the NPMS-required attributes, operators must submit the date of abandonment, diameter, method of abandonment, and certification that, to the best of the operator's knowledge, all of the reasonably available information requested was provided and, to the best of the operator's knowledge, the abandonment was completed in accordance with applicable laws. Refer to the NPMS Standards for details in preparing your data for submission. The NPMS Standards also include details of how to submit data. Alternatively, operators may submit reports by mail, fax or e-mail to the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Information Resources Manager, PHP–10, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001; fax (202) 366–4566; e-mail, “InformationResourcesManager@phmsa.dot.gov. The information in the report must contain all reasonably available information related to the facility, including information in the possession of a third party. The report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws.

Kinder Morgan failed to file a report upon abandonment for onshore pipeline facilities that cross over, under, or through commercially navigable waterways in accordance with § 195.59(a). Additionally, Kinder Morgan's written L-O&M 226 - Abandoning, Inactivating, and Reactivating Hazardous Liquids Piping, Section 3.2.3 Abandonment Reporting, provides procedures for filing the required report with PHMSA.

Kinder Morgan abandoned the LS-14 pipeline segment that crosses the Willamette River on December 18, 2021. At the time of the PHMSA inspection, Kinder Morgan still had not reported the abandonment to the National Pipeline Mapping System (NPMS). However, Kinder Morgan filed the requisite report with the NPMS in accordance with § 195.59(a) on July 17, 2023.

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$257,664 per violation per day the violation persists, up to a maximum of \$2,576,627 for a related series of violations. For violation occurring on or after March 21, 2022 and before January 6, 2023, the maximum penalty may not exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,142 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 documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to correct the item identified in this letter. Failure to do so will result in Kinder Morgan being subject to additional enforcement action.

No reply to this letter is required. If you choose to reply in your correspondence, please refer to **CPF 5-2023-034-WL**. Be advised that all material you submit in response to this enforcement action is subject to being made publicly available. If 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).

Sincerely,

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

cc: PHP-60 Compliance Registry
PHP-500 C. Cordova, J. Luo (#23-264918)
Brice Box – DOT Primary Compliance (Brice_Box@kindermorgan.com)