



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

1200 New Jersey Ave., S.E.
Washington, DC 20590

MAY 12 2008

Mr. Hugh Harden
Vice-President, Operations & Engineering
Kinder Morgan Pipelines (USA), Inc.
300 Fifth Avenue, Suite 2700
Calgary, Alberta
CANADA T2P5J2

Re: CPF No. 5-2005-5035

Dear Mr. Harden:

Enclosed is the Final Order issued in the above-referenced case. It makes findings of violation and finds that Kinder Morgan has completed part of the actions specified in the Notice required to comply with the pipeline safety regulations. When the terms of the Compliance Order have been completed, as determined by the Director, Western Region, this enforcement action will be closed. Your receipt of the Final Order constitutes service under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

William H. Cuts
for

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Chris Hoidal, P.E., Director Western Region, PHMSA

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

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

In the Matter of)	
)	
Kinder Morgan Pipelines (USA), Inc., formerly Terasen Pipeline (USA), Inc.)	CPF No. 5-2005-5035
)	
Respondent.)	
)	

FINAL ORDER

On June 20-24 and July 18-22, 2005, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration's (PHMSA's) Office of Pipeline Safety conducted an on-site pipeline safety inspection of the records, procedures, and facilities of the Express Pipeline system that extends from the Canada/Montana border to Caspar, Wyoming. At the time of such inspection, Express Pipeline was operated by Terasen Pipeline (USA), Inc., whose successor is Kinder Morgan Pipelines (USA), Inc. (Kinder Morgan or Respondent). As a result of the inspection, the Director, Western Region, Office of Pipeline Safety (OPS), issued to Respondent, by letter dated November 16, 2005, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent committed violations of 49 C.F.R. Part 195 and proposed ordering Respondent to take certain measures to correct the alleged violations. The Notice also contained a warning that Respondent had committed certain other probable violations of 49 C.F.R. Part 195 and advised Respondent to take appropriate corrective actions.

Respondent responded to the Notice by letter dated December 20, 2005 (Response). Respondent 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.

FINDING OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 195 as follows:

Item 3: The Notice alleged that Respondent violated 49 C.F.R. §§ 195.571 and 195.577(a), which state:

§ 195.571 What criteria must I use to determine the adequacy of cathodic protection?

Cathodic protection required by this subpart 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 (incorporated by reference, see § 195.3).

§ 195.577 What must I do to alleviate interference currents?

(a) For pipelines exposed to stray currents, you must have a program to identify, test for, and minimize the detrimental effects of such currents.

Specifically, the Notice alleged that Respondent failed to determine the adequacy of cathodic protection and alleviate interference currents. At the time of the inspection, there were approximately 30 test stations on the Express Pipeline that had IR-free pipe-to-soil potential (P/S) readings more negative than -1250 mV. These conditions violated NACE Standard RP 0169-96, Section 6.2.2.3.3 regarding the use of excessive polarized potentials on externally coated pipelines.

In its Response, Respondent did not contest the violations alleged in Item 3. Accordingly, I find that Respondent violated 49 C.F.R. §§ 195.571 and 195.577(a), as more fully described in the Notice.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

COMPLIANCE ORDER

The Notice proposed a Compliance Order with respect to Item 3 in the Notice. 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 with respect to the Express Pipeline in Wyoming and Montana. Respondent must-

1. With respect to Notice Item 3, confirm the accuracy of Kinder Morgan's electrical testing methodologies and instruments;
2. Maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Director, Western Region, OPS. Costs shall be reported in two categories: 1) total costs associated with preparation/revision of plans, procedures, studies and analyses; and 2) total costs associated with replacements, additions and other changes to Respondent's pipeline infrastructure; and

3. Within 60 days of receipt of the Final Order, submit documentation of procedures, costs and evidence of actions taken to the Director, Western Region, OPS, Pipeline and Hazardous Materials Safety Administration, 12300 West Dakota Avenue, Suite 110, Lakewood, Colorado 80228. Please refer to CPF No. 5-2005-5035 on any correspondence or communication in these matters.

The Director, Western Region, may grant an extension of time to comply with any of the required items upon a written request timely submitted by Respondent demonstrating good cause for an extension.

The Regional Director has indicated that Respondent has already addressed the following items specified in the Proposed Compliance Order:

1. With respect to Proposed Compliance Order Item 2, Respondent submitted evidence of a typographical error in the recorded reading at station 23702+12. The actual IR free pipe-to-soil potential (P/S) reading did not indicate electrical interference. Respondent submitted records of the annual cathodic protection survey for 2005 (conducted July 29, 2005) for station 25287+78. The current P/S readings do not indicate electrical interference; and
2. With respect to Proposed Compliance Order Item 3, Respondent submitted excavated pipe anomalies that were revealed as a result of an in-line inspection. The anomalies were about 100 feet from the suspected areas of interference. The pipe coating was evaluated as excellent and not damaged. Respondent completed several modifications to its piping and electrical isolation at various pump stations. In addition, the 2005 annual P/S survey indicates that IR-free P/S readings are now much less negative—none were more negative than 1.25 Volts. Therefore, there is no need to take additional action to address potential pipe coating damage.

Accordingly, since Respondent has submitted information that the Regional Director deems satisfactory with respect to these portions of the Proposed Compliance Order, the proposed compliance terms for items 2 and 3 are not included in this Order.

Failure to comply with this Order may result in the administrative assessment of civil penalties of not more than \$100,000 for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a United States District Court.

WARNING ITEMS

The Notice also alleged probable violations of 49 C.F.R. Part 195 but did not propose a civil penalty or Compliance Order for Notice Item 1 (49 C.F.R. §§ 195.404(c)(3) and 195.402(d)(5)) and Notice Item 2 (49 C.F.R. §§ 195.589(c) and 195.575(c))¹ for failing to maintain records but warned Respondent that it should take appropriate corrective action to correct these items. Respondent presented information in its Response showing that it had taken action to address the cited items.

¹ Item 2 was inadvertently cited as 49 Part 192 in the Notice.

Having considered such information, I find, pursuant to 49 C.F.R. § 190.205, that probable violations of 49 C.F.R. §§ 195.404(c)(3) and 195.402(d)(5) (Notice Item 1) and 49 C.F.R. §§ 195.589(c) and 195.575(c) (Notice Item 2) have occurred and Respondent is hereby advised to correct such conditions. In the event that PHMSA finds a violation for any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

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 received within 20 days of Respondent's receipt of this Final Order and must contain a brief statement of the issue(s). The terms of the Order, including any required corrective action remain in full effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order shall be effective upon receipt.

William H. Giese

for

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

MAY 12 2008

Date Issued