



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

400 Seventh Street, S.W.
Washington, D.C. 20590

MAR 21 2005

Mr. David L. Young
Senior Vice President
MarkWest Hydrocarbon, Inc.
155 Inverness Drive West
Suite 200
Englewood, CO 80112-5000

Re: CPF No. 2-2004-5017H

Dear Mr. Young:

Enclosed is a Post-hearing Decision Confirming the Corrective Action Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. The Post-hearing Decision includes a Second Amendment to the Corrective Action Order. Service is being made by certified mail and facsimile. Your receipt of the enclosed document constitutes service of that document. The terms and conditions of this document are effective upon receipt.

Sincerely,

James Reynolds
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

cc: Linda Daugherty, Region Director
Southern Region, OPS

VIA CERTIFIED MAIL (RETURN RECEIPT REQUESTED) AND TELECOPY

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

In the Matter of)	
)	
MarkWest Hydrocarbon, Inc.,)	CPF No. 2-2004-5017H
)	
Respondent.)	

**POST-HEARING DECISION CONFIRMING AND SECOND AMENDMENT TO
CORRECTIVE ACTION ORDER**

Background

On November 18, 2004, the Associate Administrator for Pipeline Safety issued a Corrective Action Order (November 18 Order), under authority of 49 U.S.C. § 601 12, finding that continued operation by MarkWest Hydrocarbon, Inc. (Respondent) of the segment of its Appalachian Liquid Pipeline System running from the Maytown Station to the Ranger Junction (the affected segment) would be hazardous to the public, property, and the environment without corrective measures. The November 18 Order was issued in response to a November 8, 2004 pipeline failure and release of natural gas liquids on the affected segment around Mile Post 86.7 in Ivel, Kentucky.

On November 19, 2004, the Associate Administrator for Pipeline Safety issued an Amendment to the Corrective Action Order (November 19 Amendment). The November 19 Amendment documented additional factual findings and ordered an independent investigation of a valve that may have contributed to the failure.

By letter dated November 24, 2004 (Response), Respondent requested a hearing “in order to clarify and discuss the requirements for a return to operation.” Respondent did not contest the validity or requirements of the November 18 Order or the November 19 Amendment, stating in its Response that it is “proceeding forward with all diligence to comply with the order.” Having previously determined that operation of Respondent’s pipeline without corrective action would result in the likelihood of serious harm to life or property, I find that the November 18 Order and the November 19 Amendment should remain in effect as amended by this Post-hearing Decision.

Respondent and its counsel appeared at the hearing on December 7, 2004 in Atlanta, Georgia. Respondent filed a post-hearing submission by letter dated December 10, 2004 that reiterated Respondent’s requests to amend the November 18 Order.

Proper Respondent

Prior to and following the hearing, OPS staff and Respondent discussed the identity of the proper Respondent in this case. MarkWest Hydrocarbon, Inc. was the named respondent in the November 18 Order and the November 19 Amendment. During these discussions, Respondent indicated that MarkWest Energy Appalachia, L.L.C. is the operator of the affected segment of the Appalachian Liquid Pipeline System. However, Respondent has financial and management authority over MarkWest Energy Appalachia, L.L.C. through its majority interest in and control of MarkWest Energy Partners, L.P., as verified by a senior official for Respondent. Therefore I find that Markwest Hydrocarbon, Inc. is the proper Respondent in this case.

Discussion

At the hearing, Respondent requested clarification of certain required corrective actions, including plans for a return to service. Further, Respondent and OPS discussed certain facts elicited within the November 18 Order as well as non-substantive procedural issues, such as a preferred point of contact for information exchange.

Factual Determinations

During the hearing and in its post-hearing submission, Respondent requested amendment of the November 18 Order to reflect facts not contained in the November 18 Order or November 19 Amendment. Generally, amendment of preliminary findings supporting a Corrective Action Order (CAO) is unwarranted where there is no substantive effect on the determination to issue the CAO or the terms of the CAO.¹

Respondent requested amendment of the preliminary finding located at the second paragraph of page 2 of the November 18 Order. Respondent voiced concern that residents in the direct area of the accident stated that they lacked knowledge of pipeline location and notification procedures but that this may not have been the case along the entire pipeline right-of-way. The geographic extent of the lack of knowledge about Respondent's pipeline location does not bear on the determination to issue the CAO or the term requiring review of Respondent's public education program. The fact that residents in the area of the accident lacked knowledge constituted a potential threat to the public safety, justifying the terms of the November 18 Order addressing that potential threat. Thus, amendment of the preliminary finding to state that a smaller number of people may have lacked knowledge would have no substantive effect on the decision to issue the CAO or to require review of Respondent's public education program.

¹ See, e.g., In the Matter of Columbia Gas Transmission Company, CPF No. 1-2002-1004-H (Feb. 5, 2003). In the present case, the preliminary findings at issue are not alleged to be in error, however, in both cases the requested factual amendments have no substantial effect on the decision to issue the Corrective Action Order or on its terms.

Respondent requested amendment of the preliminary finding located at the fifth paragraph of page 2 of the November 18 Order. Respondent requested the insertion of the phrase “, in accordance with the protocol required by OPS” at the end of the sentence. Respondent’s compliance with the protocol required by OPS could not be determined until after the November 18 Order setting forth the protocol had been issued. Thus, it is inappropriate to modify the factual statement in the November 18 Order.

Respondent requested amendment of the last sentence of the preliminary finding located at the sixth paragraph of page 2 of the November 18 Order. Respondent requested that the last sentence of the paragraph be changed to read: “Respondent agreed with OPS to purge the pipeline in the area of the failure site with nitrogen and to replace the approximately 650 feet of pipe in that area as part of any required return to service plan.” The requested modification is immaterial because the sentence as written in the November 18 Order indicates Respondent’s intention to purge the line and replace 650 feet of pipeline.

Respondent requested amendment of the preliminary finding located at the seventh paragraph of page 2 of the November 18 Order to reflect the preliminary nature of the determination of miles of coated pipe and bare pipe in the affected segment of Respondent’s pipeline. Respondent requested insertion of the phrase “Preliminary information indicates that” within the paragraph. However, as the heading of the section at issue of the November 18 Order denotes that the facts listed below the heading are “Preliminary Findings,” the requested amendment would be redundant. Further, the requested amendment has no material effect on the decision to issue the CAO or its terms.

In addition, during the hearing, OPS staff and Respondent discussed variances in wall thickness of pipe located in the affected segment and possible discrepancies in actual operating pressure indicated at the time of failure at the Maytown Station. OPS and Respondent noted that the wall thickness of the pipe varied at different locations along the affected segment. OPS staff also indicated that testing of a pressure chart provided by Respondent indicated that the pressure at the Maytown Station at the time of failure was 1371 psig, as opposed to the reading of 1260 psig listed on the pressure chart. There is no indication from the evidence presented by OPS staff and Respondent that a factual discrepancy existed with respect to the determined pressure at the failure site at the time of failure. Respondent did not propose amendment with regard to these factual issues.

Required Corrective Actions

During the hearing and in its post-hearing submission, Respondent requested amendment of several required corrective action items imposed by the November 18 Order. The requested amendments arose after Respondent sought clarification of the required immediate action plan and written plan addressing known or suspected factors contributing to the failure.

Respondent requested amendment of the Required Corrective Action paragraph 2(A) of the November 18 Order. This action requires Respondent to hydrostatically pressure test the affected segment within 120 days of receipt of the November 18 Order. Respondent requested a change from

the requirement that hydrostatic pressure testing be completed within 120 days to a requirement that procedures for the testing be submitted within 120 days. At the hearing, OPS staff stated that it was the intent of OPS that Respondent submit procedures within 120 days of receipt of the November 18 Order, not that the testing be completed within that time frame. Respondent also requested that the required action be amended to allow for alternative equivalent methods of pipeline integrity testing other than hydrostatic pressure testing. During the hearing, Respondent and OPS staff concurred that equivalent or more aggressive alternative testing methods may provide more comprehensive information that would better inform Respondent and OPS about the overall integrity of the pipeline. For the foregoing reasons, Respondent's request for amendment of the Required Corrective Action paragraph 2(A) is granted.

Respondent requested amendment of the Required Corrective Action paragraph 2@) of the November 18 Order. This action requires Respondent to submit a plan to conduct a close-interval electrical survey (CIS) on the affected segment to be completed within 180 days of receipt of the November 18 Order. During the hearing, Respondent informed OPS that it was installing a cathodic protection (CP) system on the affected segment. In order to accurately assess the effectiveness of CP on the affected segment, OPS staff and Respondent concurred that the CIS should follow the installation of the CP system. Prior to the discussion regarding installation of the CP system, Respondent requested a change from the requirement that the CIS be completed within 180 days to a requirement that the plan for the CIS be submitted within 180 days. At the hearing, OPS staff stated that it was the intent of OPS that Respondent submit a plan within 150 days of receipt of the November 18 Order, not that the CIS be completed within that time frame. In light of the discussion on installation of the CP system, it appears that, had OPS intended that Respondent complete the CIS within 180 days of receipt of the November 18 Order, this time frame would not have allowed for installation of the CP system before Respondent would be required to conduct the CIS. OPS staff and Respondent agreed that Respondent's CIS plan should provide a date for performance of a CIS as soon as possible after installation of the CP system. Accordingly, Respondent's request for amendment of the Required Corrective Action paragraph 2@) is granted.

Respondent requested amendment of the Required Corrective Action paragraph 4(C) of the November 18 Order. This action requires Respondent to submit a plan to perform appropriate repairs, pipe replacement, or other corrective measures to remediate integrity threatening conditions on the entire pipeline that are identified by the mandated evaluation process. At the hearing, Respondent requested clarification of what OPS considered an integrity threatening condition. In addition, in a post-hearing submission, Respondent proposed inserting the phrase "the effects of" before the phrase "the integrity threatening condition(s)" in the first sentence of paragraph 4(C). At the hearing, OPS staff explained that Respondent should not view "integrity threatening conditions" in an overbroad manner. For instance, corrosion on the pipeline would be an integrity threatening condition for the purpose of the requirements of paragraph 4(C), but the consideration of this condition need not extend to soil conditions which might be conducive to corrosion. Despite OPS' clarification of its narrower view of integrity threatening conditions, Respondent's requested amendment is inappropriate because OPS intends that Respondent eliminate the integrity threatening condition, not just its effects. For example, if outer wall loss is detected on the pipe and it is

determined that the wall loss was caused by external corrosion, Respondent must address the external corrosion to ensure the integrity of the pipe. Respondent's requested amendment would require only that Respondent address the outer wall loss directly because it is the effect of the external corrosion. Accordingly, because this proposed amendment could negatively impact the manner in which Respondent looks for and responds to the threats to the integrity of its pipeline, Respondent's request for amendment of the Required Corrective Action paragraph 4(C) is denied.

Second Amendment to Corrective Action Order

Pursuant to 49 U.S.C. § 601 12, the Corrective Action Order issued to MarkWest Hydrocarbon, Inc. on November 18, 2005, as modified by the Amendment to the Corrective Action Order issued November 19, 2005, is amended as follows:

Required Corrective Action paragraphs 2(A) and 2(D) are deleted. Paragraphs 2, 2(B), 2(C), and 2(E) are renumbered 4, 4(A), 4(B), and 4(C), respectively.

Required Corrective Action paragraphs 3 through 9 are renumbered 5 through 11, respectively.

A new Required Corrective Action paragraph 2 is added:

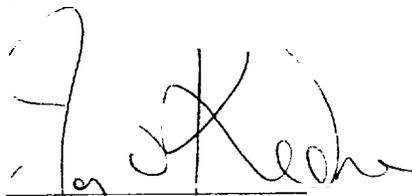
- 2. Within 120 days of receipt of this Order, submit procedures for conducting pipeline integrity testing of the affected segment to the Director, Southern Region, OPS for approval. The pipeline integrity testing must include hydrostatic pressure testing to 125 percent (125%) of the existing MOP (in accordance with 49 C.F.R. Part 195) or other pipeline integrity testing that is equivalent or more capable of assessing the integrity of the affected segment.

A new Required Corrective Action paragraph 3 is added:

- 3. Within 180 days of receipt of this Order, submit procedures to be approved by the Director, Southern Region, OPS for conducting a close-interval electrical survey on the affected segment as soon as practicable after installation of the cathodic protection system on that segment.

The terms of the November 18 Order, as modified by the November 19 Amendment and this Amendment, remain in effect.

Failure to comply with this Order may result in the assessment of civil penalties of up to \$100,000 per violation per day, or in the referral of the case for judicial enforcement.



 Stacey Gerard
 Associate Administrator
 for Pipeline Safety

MAR 21 2005

Date Issued

507