



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety Administration**

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

OCT 13 2006

Mr. Fred Martin
Vice President, Supply and Transportation
Kiantone Pipeline Corporation
15 Bradley Street
P. O. Box 780
Warren, PA 16335-3299

RE: CPF No. 1-2005-5016

Dear Mr. Martin:

Enclosed is the Final Order issued by the Acting Associate Administrator for Pipeline Safety in the above-referenced case. It withdraws two of the allegations of violation, makes findings of violation, requires certain corrective actions and assesses a civil penalty of \$23,000. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5. At such time that the civil penalty is paid and the terms of the compliance order are completed, as determined by the Director, Eastern Region, this enforcement action will be closed.

Sincerely,

James Reynolds
Pipeline Compliance Registry
Office of Pipeline Safety

cc: Ms. Carole P. Sims, Senior Attorney
Mr. William H. Gute, Director, OPS Eastern Region

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

In the Matter of)

KIANTONE PIPELINE CORPORATION,)

Respondent.)

CPF No. 1-2005-5016

FINAL ORDER

Between May 10 - 12, 2005, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety (OPS), Eastern Region, and a representative of the State of New York Public Service Commission (NY-PSC), conducted an inspection of Respondent's Pipeline Integrity Management Program (IMP) at its offices in W. Seneca, New York. As a result of this investigation, the Director, Eastern Region, OPS, issued to Respondent, by letter dated November 4, 2005, 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 Respondent had committed violations of 49 C.F.R. Part 195, proposed assessing a total civil penalty of \$50,000 for the alleged violations, and proposed that Respondent take certain measures to correct the alleged violations.

Respondent responded to the Notice by letter dated, December 2, 2005 (Response). Respondent contested the allegations, offered information in explanation of the allegations and requested mitigation of the proposed penalty. Respondent also requested a hearing. The hearing was held on March 9, 2006 in Washington, D.C. On March 28, 2006, Respondent provided a post-hearing submission. In its post hearing submission, Respondent highlighted certain factual and legal points and introduced three exhibits in support of its position which contained new information not considered during the inspection..

FINDINGS OF VIOLATION

Item 1a in the Notice alleged that Respondent violated 49 C.F.R. § 195.452(f)(1) by not specifically using the National Pipeline Mapping System (NPMS) population data boundaries to properly identify the extent of population-oriented High Consequence Areas (HCAs).

Item 1b in the Notice alleged that Respondent violated 49 C.F.R. § 195.452(f)(1) by not properly identifying which pipeline segments could affect HCAs, as Respondent identified an Other Populated Area (OPA) could affect from milepole 1.7 to milepoles 7.4 at Route 20A that is short of the actual OPA. The actual OPA continues beyond milepole 7.4.

Item 1c in the Notice alleged that Respondent violated 49 C.F.R. § 195.452(f)(1) by failing to properly identify which pipeline segments could affect HCAs, as milepoles 0.0 - 1.7 and milepoles 76.0 - 78.5 have not been reviewed for HCA's and potential inclusion in Respondent's IMP. Respondent depicted the OPA of metropolitan Buffalo as extending from milepole 1.7 and ending at milepole 7.4 at Rt. 20A.

During the hearing and in its post-hearing submission, Respondent contended that the regulations do not mention NPMS, do not specifically direct that NPMS must be used to determine the location and extent of HCAs, and there is no support for requiring the use of NPMS boundaries to determine HCAs. Respondent also questioned whether the Appendix is law. Respondent posed that even if the Appendix is law, it complied with the use of Census Bureau data. Respondent took the position that this is an attempt by OPS to subvert the rulemaking process through interpretation unsupported by the regulation's plain meaning. Respondent further argued that if the regulations do not require the use of NPMS boundaries then Respondent could not have violated the law.

OPS countered that Respondent's argument is a use of semantics in a clever attempt to discount the violation. While the regulation does not specifically state that an operator must use NPMS, not every regulation identifies every possible method available to satisfy regulatory requirements, as they are meant to be inclusive and not exclusive. NPMS is the established resource that collects HCA information for which pipeline operators are expected to address. OPS explained that the purpose for creating Appendix C, rather than placing this material in the regulation, is to provide additional guidance and clarification for selected requirements in the rule. Appendix C was provided to assist operators in understanding the basic rule requirements and what is necessary for compliance. Because the information in Appendix C is guidance, rather than mandatory requirements, an Appendix is the appropriate location for this material. Appendix C provides guidance on determining if a pipeline could affect an HCA.

Respondent further argued that it reviewed the regulations and made its best effort to comply using Census Bureau information and data, topographic maps and operator knowledge and experience. Respondent repeated its argument that it was not required to use NPMS. Respondent posed that as a result of the process used, the Census Bureau data shows that the pipeline is not in an HCA and only one segment is in an OPA. The OPA starts at the West Seneca NY terminal and ends at Route 20A. In support of its position, Respondent submitted its IMP, Exhibit "A." Respondent explained that it was not aware of the NPMS system and due to technical challenges could not have accessed that system. Respondent stated that its pipeline was not even identified in the NPMS. Respondent posed that just because OPS would prefer another process—that would include making use of NPMS boundaries does not mean Respondent's process was invalid or contrary to law. Respondent concluded that it followed a legitimate lawful process to identify HCAs and should not be held in violation of 49 C.F.R. § 195.452(f)(1).

In support of its position, OPS submitted that the regulation defines HCA as a high population area, an other populated area, an unusually sensitive area, or a commercially navigable waterway. OPS maps these areas on the NPMS. An operator, members of the public, or other government agency

may view and download the data from the NPMS home page. OPS maintains the NPMS and updates it periodically. However, it is an operator's responsibility to ensure that it has identified all HCAs that could be affected by a pipeline segment. The Census data used by Respondent showed that the pipeline was not in an HCA, only one area was in an other populated area, and only two unusually sensitive areas were identified. In addition, the Census data did not show that the area south of Route 20A was OPA.

Respondent is correct and it is true that an operator has the flexibility to identify population HCAs without the benefit of the NPMS. It is also true that OPS supports the use of Census data. As for Respondent's explanation and defense that it was not aware of the NPMS, it is rejected. OPS held public meetings to discuss and educate operators on the types of data to be used. Through a number of federal register notices and public meetings, pipeline operators were expected to be aware of Integrity Management regulations in general, and specific HCA locations that could be affected by their pipelines. The NPMS initially provided pipeline operators with HCA location data, prior to any specific pipeline data being added. Subsequently, PHMSA collected and uploaded pipeline data into NPMS.

As for Respondent's explanation and defense that its pipeline was not identified in the NPMS, it is also rejected. Operators could use NPMS whether or not their actual pipeline mileage had been uploaded. PHMSA established the NPMS for two primary purposes, as a resource to pipeline operators for information on the location of HCAs and as a repository of individual and specific pipeline data. In this case, Respondent had a process that did not include the NPMS boundaries information, which demonstrates the flexibility allowed for operators to identify HCAs. However, Respondent was unsuccessful in making an adequate correlation with the information and processes used to properly identify the extent of population-oriented HCAs. It is not a matter of OPS' preference for another process but the requirement to identify the pipeline segments "could affect" HCAs.

It is common for a Respondent found in violation of OPS regulations to claim that an OPS interpretation of a regulation is misplaced; or that the agency's interpretation is an attempt to subvert the rulemaking process. The ultimate criterion is the administrative interpretation, which becomes of controlling weight unless it is plainly erroneous or inconsistent with the regulation. The language of the regulatory provision is clear that operators are required to include in their integrity management program the identity of pipeline segments that could affect HCAs. At the time of the regulations' promulgation and during public meetings, it was clearly stated that it is an operator's responsibility to ensure that it has identified all HCAs that could be affected by a pipeline segment.

OPS' role is not to direct how an operator interprets data, as long as the data interpreted is safety conscious and interpreted in a conservative manner keeping the safety of the public, property and the environment first. The process used by Respondent failed to adequately identify all HCAs that could be affected by a pipeline segment and failed to properly identify the extent of population-oriented HCAs. Accordingly, I find Respondent violated 49 C.F.R. §195.452(f)(1).

Item 1d in the Notice alleged that Respondent violated 49 C.F.R. § 195.452(f)(1) by not properly identifying which pipeline segments could affect HCAs, as a Subject Matter Expert's review of Respondent's process for identifying New York drinking water locations revealed no specific access to HCA related data, beyond the use of its existing Facility Response Plan data. Although NPMS does not provide data related to New York drinking water, Respondent could have used alternate data sources to ascertain pipeline proximity to such locations.

During the hearing and in its post-hearing submission, Respondent contended that the regulations do not require that an operator use a specific number of data sources to identify drinking water sources. It is left to the operator's discretion to find the most appropriate process and sophisticated data sources are no substitute for old fashion operator knowledge and experience. Respondent asserted that it knows the location of drinking water sources in New York because in the early 1990's it conducted an extensive, detailed environmental study for a proposed expansion project. Respondent further asserted that the OPS inspector did not review or consider Respondent's Environmental Impact Statement (EIS) as a "data source" during the inspection. In support of its position, Respondent submitted a copy of the table of contents and relevant sections of the "Draft Environmental Impact Statement for Proposed Petroleum Pipeline Project Warren Pennsylvania to the Town of Tonawanda, New York." Respondent advised that third party consultants reviewed all available data to identify drinking water sources along the entire extent of the pipeline.

Respondent further advised that its IMP relies, in part, upon the process followed in its Facility Response Plan, which relies upon the environmental assessment for the proposed pipeline project. In support of its position, Respondent again referred to its EIS. Respondent contended that the EIS clearly shows a detailed analysis of all water and ecological and environmental impacts along the pipeline.

During the hearing, OPS acknowledged that it was unaware that Respondent used the 1999 plan and the OPA plan, as it was conducted prior to Integrity Management regulations. An OPS inspector testified that during the inspection Respondent referred only to the conclusions of its established Facility Response Plan to identify New York drinking water HCAs. The inspector also testified that the plan shown to him at the time of the inspection did not provide details as to how the conclusions were reached, thereby not substantiating their conclusions. During the hearing, OPS reviewed Respondent's EIS and conceded that it revealed a detailed analysis of all ecological and environmental impacts along the pipeline and does account for New York ecological locations and drinking water and corroborates their identification of ecological and drinking water locations. OPS stated that had the EIS been made available during the inspection, OPS would not have alleged a probable violation.

Based upon this information, this allegation of violation is withdrawn.

Item 1e in the Notice alleged that Respondent violated 49 C.F.R. § 195.452(f)(1) by not properly identifying which pipeline segments could affect a High Consequence Areas, as Respondent performed no specific review of Pennsylvania's ecological locations. Although NPMS does not

provide data related to Pennsylvania's ecological locations, Respondent could have used alternate data sources to ascertain the pipeline's proximity to such locations. While Respondent asserted that a review was conducted, it failed to substantiate that claim during the inspection, beyond its existing Facility Response Plan.

During the hearing, Respondent's argued that ecological resource is not mentioned in the regulations, confirming no violation of federal pipeline safety regulations occurred. Respondent was directed to 49 C.F.R. § 195.450, Definitions, which apply to 49 C.F.R. § 195.452 and where High Consequence Areas are defined. High Consequence Areas include "Unusually Sensitive Areas (USAs). USAs are defined under § 195.2 as "a drinking water or ecological resource area that is unusually sensitive to environmental damage from a hazardous liquid pipeline release, as identified under § 195.6."

Respondent then advised that its EIS Report, which was conducted prior to Integrity Management regulations, demonstrates that it performed a review. In support of its position, Respondent submitted the EIS.

During the inspection Respondent referred only to the conclusions of its established Facility Response Plan to identify Pennsylvania ecological HCAs. At the time of the inspection, the plan shown to the OPS inspector did not provide details as to how the conclusions were reached, thereby not substantiating their conclusions. At the time of the inspection, the plan shown to the OPS inspector did not provide details as to how the conclusions were reached, thereby not substantiating their conclusions. However, after a review of Respondent's EIS, I concur with OPS' conclusion that it revealed a detailed analysis of all ecological and environmental impacts along the pipeline and does account for Pennsylvania ecological locations and corroborates its identification of ecological locations.

Based upon this information, this allegation of violation is withdrawn.

Item 2 in the Notice alleged that Respondent violated 49 C.F.R. § 195.452(b) when it did not include in its IMP the identity of pipeline segments that could affect HCAs prior to the regulatory deadline. Respondent did not include in its IMP the identity of HCAs on its Category 2 pipeline by November 18, 2002. Respondent's IMP lacked information, as the area south of Rt. 20A was not properly evaluated.

Respondent took the position that this allegation of violation is the same as Item 1a and repeated its argument that it was not required to use NPMS, that the regulations do not mention NPMS, and do not specifically direct that NPMS must be used to determine the location and extent of HCAs. Respondent also argued that there is no support for requiring the use of NPMS boundaries to determine HCAs. Respondent contended that it properly identified HCAs prior to November 18, 2002 and that there is no violation. In support of its position, Respondent again referred to its EIS. Respondent contended that the EIS clearly shows a detailed analysis of all water and ecological and environmental impacts along the pipeline.

OPS repeated its testimony that, during the inspection, Respondent referred only to the conclusions of their established Facility Response Plan, without further substantiation of processes used to identify drinking water and ecological resources. OPS also testified that although the EIS addresses water and ecological resources, it does not account for population.

A determination is made that Respondent is correct that it accounted for water and ecological resources no later than November 18, 2002. However, Respondent failed to adequately account for the population. The extended population HCAs at the beginning of the pipeline (Buffalo, NY) and end of the pipeline (Warren, PA) were not included in Respondent's tabulation of HCAs and its IMP also lacked information on the area south of Rt. 20A, leaving these population HCAs unaddressed. Respondent's IMP program referred to its Facility Response Plan. However, its Facility Response Plan also failed to provide sufficient details as to how its conclusions were reached. Respondent failed to substantiate its conclusions. Accordingly, I find that Respondent violated 49 C.F.R. §195.452(b).

Item 3 in the Notice alleged that Respondent violated 49 C.F.R. § 195.452(d) by not completing its baseline assessment by the regulatory deadline, as Respondent did not have 50% of its HCA baseline assessment completed on its Category 2 pipeline by August 16, 2005. The line was partially assessed for metal loss with a MFL Tool in 2001. Milepoles 0.0 - 1.7 and 76.0 - 78.5 were not assessed for metal loss. Portions of this mileage can affect HCAs. Respondent's Category 2 pipeline was not adequately assessed for deformation.

Respondent argued that the allegation of violation called into question whether the 2001 pig run qualifies as 50% of the HCA baseline and whether it was necessary to include the very beginning and very end of the pipeline in the baseline. Respondent also posed that the regulations allow for the use of a prior assessment to meet the baseline requirement if the assessment would otherwise meet the IMP requirements, 49 C.F.R. § 195.450(d)(2). One of those requirements is to be able to detect a dent with a depth greater than 2% of the pipeline's diameter, 49 C.F.R. § 195.452(h). Respondent submitted Exhibit C, a specification from H. Rosen USA, Inc., in support of its position. The specification states that ID Anomalies are detectable and that ID Anomalies include dents, buckles and wrinkles. Respondent advised that it decided to use its 2001 prior assessment to meet the baseline requirement because 95% of the pipeline was covered and it believed that the regulatory criteria had been met.

Respondent further advised that the very beginning and very end of the pipeline was not assessed because those segments cannot accept the assessment tool or "pig." Based upon its HCA classification, Respondent determined that it was not necessary to assess the very beginning and very end of the pipeline because neither segment impacts HCAs. Nevertheless, Respondent advised that it cannot prove that the 2001 pig run detected dents at 2% of pipeline diameter. Respondent suggested that OPS review the Rosen report to determine whether it meets the requirements for deformation.

After further consideration, OPS agreed that most of the pipeline was assessed for metal loss with the 2001 ILI. Nevertheless, OPS advised that 49 C.F.R. § 195.452(c)(i)(A) requires that if the operator chooses to assess the pipeline with an ILI, then the process must be capable of detecting corrosion and deformation. While the ILI vendor proposed to run an electronic geometry pig (EPG) that could have adequately detected deformation, the EPG was not performed. A review of Respondent's Exhibit C, page 7, a specification from H. Rosen USA, Inc., Section 2.2 states EGP "Not Applicable." OPS testified that an adequate deformation assessment was not conducted. OPS pointed out that the ILI corrosion report mentioned possible ID anomaly (PIDA). Although the ILI tool can somewhat detect the presence of deformation, it cannot determine the size of the deformation, as required by 49 C.F.R. § 195.452(h)(4)(ii) and (iii).

An operator cannot perform an adequate assessment for deformation(dents) without being able to size possible dents. Although running a gauging plate through the pipe in advance of the corrosion ILI would detect large deformations that might impede movement or damage the corrosion ILI tool, such a gauging plate is only valid for gross deformations and would not detect 2% and 3% deformations as required by the regulations. Respondent's Category 2 pipeline was not adequately assessed for deformation. Accordingly, I find that Respondent violated 49 C.F.R. § 195.452(d) by failing to complete its baseline assessment by August 16, 2005.

ASSESSMENT OF PENALTY

The Notice proposed a \$50,000 civil penalty for violations of 49 C.F.R. Part 195. Under 49 U.S.C. § 60122, Respondent is subject to a civil penalty not to exceed \$100,000 per violation for each day of the violation up to a maximum of \$1,000,000 for any related series of violations.

49 U.S.C. § 60122 and 49 C.F.R. § 190.225 require that, in determining the amount of the civil penalty, I consider the following criteria: nature, circumstances, and gravity of the violation, degree of Respondent's culpability, history of Respondent's prior offenses, Respondent's ability to pay the penalty, good faith by Respondent in attempting to achieve compliance, the effect on Respondent's ability to continue in business, and such other matters as justice may require.

The proposed penalty for **Item 1a** of the Notice is \$10,000 for violation of 49 C.F.R. § 195.452(f)(1). Respondent failed to specifically use the National Pipeline Mapping System (NPMS) population data boundaries to properly identify the extent of population-oriented High Consequence Areas (HCAs).

Respondent argued that if the regulations do not mention NPMS and do not require the use of NPMS boundaries then Respondent could not have violated the law and is not subject to civil penalties.

PHMSA established the NPMS for two primary purposes, as a resource to pipeline operators for information on the location of HCAs and as a repository of individual and specific pipeline data. Through a number of federal register notices and public meetings, pipeline operators were expected to be aware of Integrity Management regulations in general, and specific HCA locations that could be affected by their pipelines. Operators are not necessarily required to use NPMS to find those HCAs that they could affect, but regulations require operators to account for those HCAs included in the NPMS. (49 C.F.R. Part 195, Appendix C, IA) An operator may choose to establish an IMP

without the use of NPMS, but PHMSA uses NPMS to validate the thoroughness of a pipeline operator's program. Operators could use NPMS whether or not their actual pipeline's mileage had been uploaded. The process used by Respondent failed to adequately identify all HCAs that could be affected by a pipeline segment and failed to properly identify the extent of population-oriented HCAs. Respondent has not provided any evidence that would justify mitigation of the penalty. Failure to correctly determine the presence and expanse of HCAs along the pipeline increases the risk of potential harm to the public and the environment. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$10,000.

The proposed penalty for **Item 1d** of the Notice is \$10,000 for violation of 49 C.F.R. § 195.452(f)(1), as Respondent failed to properly identify which pipeline segments could affect HCAs, as Respondent's process for identifying New York drinking water locations revealed no specific access to HCA related data, beyond the use of its existing facility response plan data. Based upon a demonstration of compliance at the hearing, this allegation of violation was withdrawn. Accordingly, the related proposed civil penalty is withdrawn.

The proposed penalty for **Item 1e** of the Notice is \$10,000 for violation of 49 C.F.R. § 195.452(f)(1), as Respondent failed to properly identify which pipeline segments could affect a High Consequence Areas. Respondent performed no specific review of Pennsylvania's ecological locations. Based upon a demonstration of compliance at the hearing, this allegation of violation was withdrawn. Accordingly, the related proposed civil penalty is withdrawn.

The proposed penalty for **Item 2** is \$10,000 for violation of 49 C.F.R. § 195.452(b), as Respondent failed to include in its Integrity Management Program the identity of pipeline segments that could affect a High Consequence Areas prior to the regulatory deadline. Respondent did not include in its IMP the identity of HCAs on its Category 2 pipeline by November 18, 2002. Respondent's program lacked information as the area south of Rt. 20A was not properly evaluated.

Respondent contended that it properly identified HCAs prior to November 18, 2002. In support of its position, Respondent again referred to its EIS. Respondent contended that the EIS clearly shows a detailed analysis of all water and ecological and environmental impacts along the pipeline.

Respondent is correct that it accounted for water and ecological resources no later than November 18, 2002. However, Respondent failed to adequately account for the population. The extended population HCAs at the beginning of the pipeline (Buffalo, NY) and end of the pipeline (Warren, PA) were not included in Respondent's tabulation of HCAs and its program also lacked information on the area south of Rt. 20A, leaving these population HCAs unaddressed. Respondent's Facility Response Plan also failed to provide sufficient details as to how its conclusions were reached and failed to substantiate those conclusions. Based on Respondent's demonstration that it accounted for water and ecological resources no later than November 18, 2002, the civil penalty is reduced proportionately. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$3,000 for failure to adequately account for the HCA population at the beginning of the pipeline and at end of the pipeline and its failure to include sufficient information on the area south of Rt. 20A.

The proposed penalty for **Item 3** of the Notice is \$10,000 for violation of 49 C.F.R. § 195.452(d), as Respondent failed to complete its baseline assessment by the regulatory deadline, as Respondent did not have 50% of its HCA baseline assessment completed on its Category 2 pipeline by August 16, 2005. The line was partially assessed for metal loss with a MFL Tool in 2001. Milepoles 0.0 - 1.7 and 76.0 - 78.5 were not assessed for metal loss. Portions of this mileage can affect HCAs. Respondent's Category 2 pipeline was not adequately assessed for deformation.

The Respondent advised that its 2001 pig run qualifies as 50% of the HCA baseline. Respondent further advised that the very beginning and very end of the pipeline was not assessed because those segments cannot accept the assessment tool or "pig." Respondent also posed that the regulations allow for the use of a prior assessment to meet the baseline requirement if the assessment would otherwise meet the integrity management program requirements, 49 C.F.R. § 195.450(d)(2).

The ILI vendor proposed to run an electronic geometry pig (EPG) that could have adequately detected deformation, the ILI was not performed. A review of Respondent's Exhibit C, page 7, a specification from H. Rosen USA, Inc., Section 2.2 states EGP "Not Applicable." Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$10,000.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$23,000. A determination has been made that Respondent has the ability to pay this penalty without adversely affecting its ability to continue business.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require this payment be made by wire transfer, through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-300), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125; (405) 954-8893.

Failure to pay the \$23,000 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a United States District Court.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to **Items 1a, 1b, 1c, 1d, 1e, 2 and 3** for violation of 49 C.F.R. §195.452. **Items 1d and 1e** were withdrawn.

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

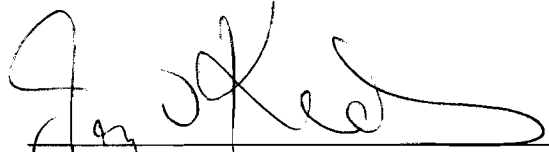
established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations. Respondent must -

1. With respect to **Item 1a** and **1b** of the Notice, use NPMS population data boundaries to identify the beginning and end points of HCAs and OPAs over the entire pipeline, as required by 49 C.F.R. §195.452(f)(1). Also, reform the integrity management program to specifically use NPMS population boundaries and incorporate the results into the integrity management program.
2. With respect to **Item 1c** of the Notice, reform the integrity management program to include an HCA review of mile poles 0.0 and 1.7 and mile poles 76.0 - 78.5, then include this mileage in the integrity management program for portions of such mileage that could affect HCAs.
3. With respect to **Item 2** of the Notice, include in your program the identification of each pipeline or pipeline segment specifically correlated to HCA data.
4. With respect to **Item 3** of the Notice, complete a thorough baseline assessment, including metal loss and deformation, on at least 50% of the pipeline system that has been determined to have a "could affect" on HCAs with prioritization of the work on higher risk HCA areas.
5. All of the compliance items detailed above must be completed prior to February 28, 2007.
6. All documentation and/or evidence of completion of these actions must reference the above Item number to which the documentation and/or evidence applies.
7. All documentation and/or evidence of completion of these actions must be combined in one package and sent at the same time. **Do not send individual documents**, even if some are completed before others.
8. Submit four (4) copies of all documentation and/or evidence to demonstrate completion of each item detailed above to the Director, OPS, Eastern Region, 409 3rd Street, SW, Suite 300, Washington, D.C. 20024.
7. The Director, OPS, Eastern Region may grant an extension of time for compliance with any of the terms of this order for good cause. A request for an extension must be in writing.

Failure to comply with this Final 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.

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 filing of the petition automatically stays the payment of any civil penalty assessed. All other 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 are effective on receipt.



Theodore L. Willke
Acting Associate Administrator
for Pipeline Safety

OCT 13 2006

Date Issued