

AUGUST 1, 2013

Mr. Michael Mear
Chief Executive Officer
Magellan Pipeline Holdings, L.P.
One Williams Center
Tulsa, OK 74172

Re: CPF No. 4-2013-5009

Dear Mr. Mear:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$104,800.00, and specifies actions that need to be taken by Magellan Pipeline Holdings, L.P., to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the compliance order completed, as determined by the Director, Southwest Region, this enforcement action will be closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. R.M. Seeley, Director, Southwest Region, OPS
Mr. Michael C. Pearson, Vice President – Technical Services, Magellan Pipeline Holdings, L.P.

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

)	
In the Matter of)	
)	
Magellan Pipeline Holdings L.P.,)	CPF No. 4-2013-5009
)	
Respondent.)	
)	

FINAL ORDER

During the months of April and November 2012, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of Magellan Pipeline Holdings, L.P.,¹ (Magellan or Respondent) from Cushing to Drumright, Oklahoma and from Drumright to Healdton, Oklahoma. Magellan operates approximately 11 miles of 16-inch crude oil products pipelines from Cushing to Drumright in Oklahoma and three (3) breakout tanks at the Drumright facility. Magellan also has 146 miles of 20-inch pipeline from Drumright to Healdton, which is currently idle and has been purged with Nitrogen.²

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated April 5, 2013, a Notice of Probable Violation, Proposed Civil Penalty (Notice), Proposed Compliance Order (Notice), and included warnings pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding Magellan committed violations of 49 C.F.R. Part 195 and proposed assessing a civil penalty of \$104,800 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations. The warning items require no further action, but warn the operator to correct the probable violations.

In its Response, Magellan did not contest the allegations in the Notice that it violated 49 C.F.R. Part 195, as follows:

FINDINGS OF VIOLATION

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 195.430, which states:

¹ Magellan Pipeline Holdings, L.P., is a wholly owned subsidiary of Magellan Midstream Partners, L.P.

² See, Pipeline Safety Violation Report (Violation Report), (April 5, 2013) (on file with PHMSA), at 1.

§ 195.430 Firefighting equipment.

Each operator shall maintain adequate firefighting equipment at each pump station and breakout tank area. The equipment must be –

- (a) In proper operating condition at all times;
- (b) Plainly marked so that its identity as firefighting equipment is clear; and
- (c) Located so that it is easily accessible during a fire.

The Notice alleged that Respondent violated 49 C.F.R. § 195.430 by failing to ensure that all pump stations and breakout tank areas have adequate firefighting equipment. Specifically, the Notice alleged that Magellan failed to follow the procedures set forth in 5.05-ADM-076 requiring fire extinguishers at the Drumright pump station. The inspection found no fire extinguishers or firefighting equipment at the Drumright pump station. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.430 by failing to provide fire extinguishers and firefighting equipment at the Drumright pump station, despite the expressly written procedures of 5.05-ADM-076 requiring all pump stations and breakout tank areas to have adequate firefighting equipment.

Item 6: The Notice alleged that Respondent violated 49 C.F.R. § 195.589, which states in relevant part:

§ 195.589 What corrosion control information do I have to maintain?

(a) ...

(c) You must maintain a record of each analysis, check, demonstration, examination, inspection, investigation, review, survey, and test required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that corrosion requiring control measures does not exist. You must retain these records for at least 5 years, except that records related to §§195.569, 195.573(a) and (b), and 195.579(b)(3) and (c) must be retained for as long as the pipeline remains in service.

§195.573 What must I do to monitor external corrosion control?

(c) *Rectifiers and other devices.* You must electrically check for proper performance each device in the first column at the frequency stated in the second column.

Device	Check Frequency
Rectifier..... Reverse current switch. Diode. Interference bond whose failure would jeopardize structural protection.	At least six times each calendar year, but with intervals not exceeding 2 ½ months
Other interference bond.....	At least once each calendar year, but with intervals not exceeding 15 months

The Notice alleged that Respondent violated 49 C.F.R. § 195.589 by failing to produce any records relating to the inspection of four (4) interference bonds whose failure would jeopardize the pipeline’s structural protection. Specifically, the Notice alleged that Magellan failed to provide any records that it monitored any of the interference bonds from Cushing to Drumright and from Drumright to Healdton, from September 1, 2010 until April 2012. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.589 by failing to properly retain records documenting the inspection of the four (4) interference bonds from Cushing to Drumright and from Drumright to Healdton, between September 1, 2010 until April 2012.

Item 7: The Notice alleged that Respondent violated 49 C.F.R. § 195.589, which states in relevant part:

§ 195.589 What corrosion control information do I have to maintain?

(a) ...

(c) You must maintain a record of each analysis, check, demonstration, examination, inspection, investigation, review, survey, and test required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that corrosion requiring control measures does not exist. You must retain these records for at least 5 years, except that records related to §§195.569, 195.573(a) and (b), and 195.579(b)(3) and (c) must be retained for as long as the pipeline remains in service.

§195.583 What must I do to monitor atmospheric corrosion control?

(a) You must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows:

If the pipeline is located:	Then the frequency of inspection is:
Onshore.....	At least once every 3 calendar years, but with intervals not exceeding 39 months.
Offshore.....	At least once each calendar year, but with intervals not exceeding 15 months.

The Notice alleged that Respondent violated 49 C.F.R. § 195.589 by failing to maintain records of the Cushing to Drumright pipeline inspections needed to demonstrate the adequacy of its corrosion control measures. Specifically, Magellan failed to produce any records establishing that it inspected the Cushing to Drumright pipeline for atmosphere corrosion since it purchased the line on September 1, 2010. Additionally, Magellan could not provide any records from the previous owner (BP) indicating when the line was last inspected for atmospheric corrosion. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.589 by failing to provide any records that show it monitored its pipeline for atmospheric corrosion once every three years.

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

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.³ In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$104,800 for the violations cited above.

Item 6: The Notice proposed a civil penalty of \$63,900.00 for Respondent's violation of 49 C.F.R. § 195.589, for failing to retain the records pertaining to the inspection of four (4) interference bonds from Cushing to Drumright and from Drumright to Healdton, between September 1, 2010 until April 2012.

Magellan neither contested the allegation nor presented any evidence or argument justifying an elimination of the proposed penalty. Without the proper documentation one cannot tell if Magellan inspected the interference bonds, the condition of the interference bonds and whether they are in need of repair. Should an interference bond fail it would jeopardize the structural protection of the pipeline. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$63,900 for violation of 49 C.F.R. §195.589.

Item 7: The Notice proposed a civil penalty of \$40,900.00 for Respondent's violation of 49 C.F.R. § 195.589, for failing to maintain records of any atmospheric corrosion tests for three (3) years. Magellan neither contested the allegation nor presented any evidence or argument justifying an elimination of the proposed penalty. Magellan's failure to maintain any records regarding when the pipeline was last tested for atmospheric corrosion, prevents an inspector or even a Magellan employee from knowing what effects atmospheric corrosion may be having on the pipeline. Whether the pipeline is in serious need of repair is unknown, based upon Magellan's lack of records, and represents a potential serious threat. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$40,900 for violation of 49 C.F.R. §195.589.

In summary, having reviewed the record and considered the assessment criteria for each of the

³ The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Pub. L. No. 112-90, § 2(a)(1), 125 Stat. 1904, January 3, 2012, increased the civil penalty liability for violating a pipeline safety standard to \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.

Items cited above, I assess Respondent a total civil penalty of **\$104,800.00**.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to 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-341), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 269039, Oklahoma City, Oklahoma 73125. The Financial Operations Division telephone number is (405) 954-8893.

Failure to pay the \$104,800 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 district court of the United States.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 4 and 7 in the Notice for violations of 49 C.F.R. §§ 195.430, and 195.589, respectively. 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:

1. With respect to the violation of § 195.589 (**Item 4**), Respondent must provide the proper firefighting equipment, in compliance with 5.05-ADM-076 of Magellan's procedures, at the Drumright pump station area.
2. With respect to the violation of § 195.589 (**Item 7**), Respondent must provide documentation demonstrating that it has evaluated MP 6,900 for atmospheric corrosion and corrected any deficiencies utilizing 49 CFR Part 195 and Magellan procedures. The documentation must show that the pipe integrity is suitable for the maximum allowable operating pressure of the pipeline system.
3. Within thirty (30) days after receipt of this Final Order, Magellan must complete and submit all documentation listed in items 4 and 7 of this Compliance Order.
4. It is requested (not mandated) that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Mr. R. M. Seeley, Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses; and 2) total

cost associated with replacements, additions and other changes to pipeline infrastructure.

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

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000 for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

WARNING ITEMS

With respect to Items 1, 2, 3 and 5, the Notice alleged probable violations of Part 195 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 195.49 (**Item 1**) — Respondent's alleged failure to accurately complete the DOT Form PHMSA F7000-1.1 identifying the proper owner of the Cushing to Drumright to Healdton, Oklahoma pipelines; and

49 C.F.R. § 195.402 (**Item 2**) — Respondent's alleged failure to follow its written procedure 7.05-ADM-003 on gathering pertinent data for evaluating and managing right-of-ways; and

49 C.F.R. § 195.402 (**Item 3**) — Respondent's alleged failure to follow its procedures for inspecting fire extinguishers at the Tribbey pump station; and

49 C.F.R. § 195.420 (**Item 5**) — Respondent's alleged failure to provide a record indicating that it had inspected a mainline valve was inspected during the fall of 2010.

If OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued