

September 17, 2013

Via Federal Express

Mr. Byron Coy, PE
Director, Office of Pipeline Safety, Eastern Region
Pipeline and Hazardous Materials Safety Administration
820 Bear Tavern Road, Suite 103
West Trenton, NJ 08628

**RE: NOTICE OF PROBABLE VIOLATION AND PROPOSED CIVIL PENALTY
CPF No. 1-2013-5018**

Dear Mr. Coy:

On August 20, 2013, Kinder Morgan Energy Partners, L.P. received the Pipeline and Hazardous Materials Safety Administration's (PHMSA) Notice of Probable Violation (NOPV) and Proposed Civil Penalty, CPF No. 1-2013-5018, dated August 19, 2013. The Notice resulted from the September 13, 2012 inspection by a State Inspector for the Virginia State Corporation Commission of Plantation Pipe Line's 8RK pipeline from Roanoke, VA to the Virginia/North Carolina state line. The Notice alleges Plantation Pipe Line (PPL) did not have a sufficient number of line markers to accurately know the buried pipeline location near public road crossings. The Notice also alleges that PPL failed to maintain test lead wires in a condition to obtain electrical measurements to determine whether cathodic protection complies with §195.571, during the 2011 and 2012 PPL annual survey. Civil Penalties for these two alleged violations totaled \$57,600: \$28,900 and \$28,700, respectively. Kinder Morgan believes the civil penalties are excessive and unwarranted given the facts and circumstances surrounding each of the alleged violations. In fact, while we are not seeking a hearing, we do not believe that we are in violation of 49 CFR Part 195.410 (a) (1) as alleged.

For convenience, we have included the verbiage of each alleged violation followed by Kinder Morgan's response (in italics).

PHMSA allegation #1

PPL's Roanoke pipeline did not have a sufficient number of line markers to accurately know the buried pipeline location near public road crossings.

PPL failed on two occasions to have a sufficient number of line markers over the buried pipeline so that its location is accurately known off of Retreat Road in Franklin County, Virginia and Crooked Oak Road in Franklin County, Virginia.

VA SCC inspector was conducting a field inspection of the PPL Roanoke Lateral and observed two sites off public roads, where there were an insufficient number of line markers in nearby uncultivated pasture land to accurately determine the location of the pipeline. The VA SCC inspector later observed that PPL installed additional line markers in the areas noted.

Kinder Morgan's response to allegation #1

Kinder Morgan disagrees that the two locations mentioned in allegation #1 did not have sufficient number of line markers to accurately know the buried pipeline location near public road crossings and request that PHMSA withdraws the proposed civil penalty. Kinder Morgan will present for PHMSA clarifying information in this response that will demonstrate there were a sufficient number of pipeline markers. Kinder Morgan will use the assistance of photographs and Google Earth imagery to assist in explaining our clarifying position.

Pipeline Markers at Road Crossings

*PHMSA alleges "PPL's Roanoke pipeline did not have a sufficient number of line markers to accurately know the buried pipeline location **near public road crossings**"(emphasis added). However, both the pipeline road crossing at Retreat Road and Crooked Oak Road had pipeline markers located "**at each public road crossing**" (emphasis added) as required by regulation 49 CFR Part 195.410. See Figures No. 1 and No.2 as visual evidence of pipeline markers "**at each public road crossing**" (emphasis added) as required by regulation 49 CFR Part 195.410. Although a photograph of the road crossing at Retreat Road was not taken on the day of the inspection, Figure No. 1 is satellite imagery from Google Earth showing what one of the two road crossing markers looked like on the day of the inspection. The imagery date for the Google Earth Street View is May of 2012 (4 months prior to inspection). Figure No. 2 is a photograph taken the day of the inspection at Crooked Oak Road and shows markers at the road crossing and at the nearby valve site.*

Additionally, even though it was not mentioned in your Notice to Kinder Morgan, the crest on the pasture hill at Retreat Road which the VA SCC inspector had a concern, did have another pipeline marker visually present approximately 300 feet downstream of the crest (between the road and the crest of the hill). The marker seen during the inspection and the marker installed at the crest of the hill are shown in Figure No. 3. The arrow in Figure No. 3 shows the marker that was not seen during the inspection and subsequently installed. It should be noted that the marker with the arrow in Figure No. 3 replaced a marker, which had been knocked down in the brush next to it from farming activities conducted in the pasture. The downed line marker was

discovered in the brush by the Kinder Morgan employee immediately after he installed the new line marker. Figure No. 4 illustrates the added pipeline marker with the arrow and the numerous pipeline markers that were already in place at the Crooked Oak Road location.



Figure No.1

8RK pipeline crossing at Retreat Road-Google Earth Street View Imagery (dated May 2012), demonstrating pipeline marker at road crossing as required by 49 CFR Part 195.410



Figure No. 2

8RK pipeline crossing at Crooked Oak Road-Photo taken the day of inspection, demonstrating pipeline markers at road crossing as required by 49 CFR Part 195.410



Figure No. 3

8RK pipeline at Retreat Road-Showing pipeline marker in place (300 ft downstream) and observed the day of the inspection and the pipeline marker which was re-installed (arrow)



Figure No. 4

8RK pipeline at Crooked Oak Road shows numerous pipeline markers present on day of inspection and the pipeline marker added (arrow)

Pasture Use

PHMSA states in its Notice that the pastures were “uncultivated”. However, this does not mean that the pastures were “unused” or not maintained as demonstrated in Google Earth Imagery (see Figure Nos. 5 and 6); these pastures appear to be mowed with heavy equipment. The Google Earth imagery date for these figures is 10/24/2011. Both pipeline marker locations are in the path of heavy mowing/farming equipment. As you can deduce from these figures, it is extremely difficult to maintain pipeline markers when subject to heavy mowing equipment as on these two pastures. As mentioned previously, the pipeline marker in question at the Retreat Road location had been knocked down by the mowing conducted at the pasture.

Additionally, PPL has encountered problems with pipeline markers at the pasture at Crooked Oak Road due to cows chewing the plastic pipeline markers.



Figure No. 5
8RK pipeline crossing mowed pasture at Retreat Road



Figure No. 6
8RK pipeline crossing mowed pasture at Crooked Oak Road

Line of sight

Kinder Morgan also disagrees with PHMSA's assertion that the 8RK pipeline did not have sufficient number of pipeline markers is based on an enforcement of "line of sight." As PHMSA is well aware, line of sight is not in 49 CFR Part §195.410 and is thus subjecting Kinder Morgan to enforcement of an interpretation that has not gone through the due regulatory process.

The addition of the pipeline marker at Crooked Oak Road was a "good faith" effort by PPL to demonstrate its commitment to addressing concerns raised by inspectors during an inspection and not an admission to non-compliance in this matter. Based on the photographic evidence demonstrating a sufficient number of pipeline markers and additional clarifying statements presented, Kinder Morgan requests that PHMSA withdraw the NOPV for 49 CFR Part §195.410 concerning the pipeline locations at Retreat Road and Crooked Oak Road.

PHMSA allegation #2

PPL failed to maintain test lead wires in a condition to obtain electrical measurements to determine whether cathodic protection complies with §195.571, during the 2011 and 2012 PPL annual survey.

PPL failed on one occasion to maintain the test wire at test station number 2180+19, in a condition to obtain electrical measurements to determine whether cathodic protection complies with §195.571, off of Bethlehem Road in Franklin County, Virginia.

The VA SCC inspector was conducting a field inspection of the PPL Roanoke Lateral and found one occasion where there was a test lead wire at station number 2180+19 along Bethlehem Road in Franklin County, VA that had not been maintained in a condition to obtain electrical measurements for two consecutive annual surveys for 2011 and 2012.

Kinder Morgan's response to allegation #2

Kinder Morgan acknowledges the test station on the 8RK pipeline at station number 2180+19 was inspected during the annual surveys in 2011 and 2012; however, no pipe-to-soil measurement was taken due to the test lead being unable to be located. The test lead was located and the test station was repaired on September 13, 2012 and a pipe-to-soil reading of -2.43 volts was measured using a copper sulfate electrode.

Kinder Morgan believes this is an isolated incident as a review of corrosion records for the 8RK pipeline shows this to be the only occurrence of this situation over the past ten (10) years. However, steps have been initiated by the Greensboro Area to ensure test leads are maintained to prevent pipe-to-soil measurements not being taken over a two (2) year period. The Greensboro Area will utilize their computerized maintenance management system (CMMS) to

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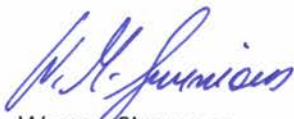
issue work orders for cathodic protection test station repair. Use of this system will ensure timely response of test station repairs and provide documentation to substantiate the repairs.

Notwithstanding, Kinder Morgan believes the civil penalty assessed by PHMSA for this isolated occurrence was excessively punitive. Kinder Morgan respectfully requests that PHMSA withdraw or lessen the excessive nature of this civil penalty.

Kinder Morgan believes with the information provided in this response, you will agree that the NOPV for pipeline markers should be withdrawn and the civil penalty for test lead wires should be removed or reduced.

Should you have any questions or concerns, please call Quintin Frazier at 770-751-4240, Buzz Fant at 713-369-9454 or me at 713-420-6330.

Sincerely,



Wayne Simmons
Vice-President Operations
Products Pipelines