



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue SE
Washington, DC 20590

MAY 11 2012

Mr. Craig O. Pierson
President
Marathon Pipe Line, LLC
539 South Main Street
Findlay, Ohio 45840

RE: In the Matter of Marathon Pipe Line, LLC – CPF No. 4-2010-5013

Dear Mr. Pierson:

Please find enclosed the fully executed original of the Consent Agreement and Order, dated May 8, 2012, in the above-referenced enforcement action. It has been signed by Jeffrey D. Wiese, Associate Administrator for Pipeline Safety, on behalf of PHMSA.

Thank you and your counsel, Mr. Vince Murchison, for your cooperation in getting this matter resolved. If you have any questions regarding implementation of the Agreement, please feel free to contact the Southwest Region Office.

Sincerely,

James M. Pates
Assistant Chief Counsel for Pipeline Safety
Office of Chief Counsel, PHMSA

Enclosure

cc: Vince Murchison, Esq., SNR Denton US, LLP, Counsel for Respondent
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS
Mr. Roderick Seeley, Director, Southwest Region, OPS

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

In the Matter of)	
)	
Marathon Pipe Line LLC,)	CPF No. 4-2010-5013
)	
Respondent.)	
)	

CONSENT AGREEMENT AND ORDER

WHEREAS, from March to October 2009, pursuant to Chapter 601 of 49 United States Code, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site investigation of the pipeline facilities of Marathon Pipe Line LLC (Marathon or Respondent), at its St. James Terminal near Garyville, Louisiana (St. James Terminal), in response to a March 10, 2009 accident at that facility. During the execution of a drain line tie-in project, a Marathon contractor ignited hazardous vapors in a crude oil sump at the St. James Terminal. The ensuing explosion resulted in one fatality and three injuries; and

WHEREAS, Respondent operates one of the largest petroleum pipeline networks in the United States, based on total volume delivered;¹ and

WHEREAS, pursuant to the OPS inspection and subsequent accident investigation, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated August 24, 2010, a Notice of Probable Violation and Proposed Civil Penalty, and Proposed Compliance Order (Notice), a copy of which is attached hereto as Appendix One. In accordance with 49 C.F.R. § 190.207, the Notice proposed: (1) finding that Respondent had committed various violations of 49 C.F.R. Parts 195 and 199; (2) assessing a total civil penalty of \$1,071,400 for the alleged violations; and (3) ordering Respondent to take certain measures to correct the alleged violations; and

WHEREAS, Marathon responded to the Notice by letter dated January 25, 2011, and proposed a settlement; and

WHEREAS, PHMSA and Marathon entered into settlement negotiations and have reached agreement on the terms and conditions set forth herein; and

¹ http://www.marathonpetroleum.com/Operations/Pipeline_Transportation/ (last accessed 1/19/12).

WHEREAS, the agreement includes a Supplemental Safety and Environmental Project, as described in Appendix Two and attached hereto, that has been voluntarily agreed to by Marathon and includes safety measures not required by 49 U.S.C. § 60101, *et seq.*, or 49 C.F.R. Part 195; and

WHEREAS, the Parties agree that this Consent Agreement and Order (Agreement) will resolve the Notice, pursuant to 49 C.F.R. Part 190, without further administrative proceedings or litigation, that said Agreement is fair and reasonable, and that it will promote the public interest by improving the safety performance of Marathon's pipeline system and by advancing the safety goals of PHMSA;

NOW, THEREFORE, upon consent and agreement of the Parties, it is hereby Ordered and Adjudged, as follows:

I. General Provisions.

1. Respondent acknowledges, as operator of the St. James Terminal, that Marathon and its pipeline system are subject to the jurisdiction of the Pipeline Safety Laws, 49 U.S.C. § 60101, *et seq.*, and the regulations and administrative orders issued thereunder. For purposes of this Agreement, Respondent further acknowledges that it received proper notice of PHMSA's actions in this proceeding and that the Notice states claims upon which relief may be granted pursuant to 49 U.S.C. § 60101, *et seq.*, and the regulations and administrative orders issued thereunder.

2. Without admitting or denying the allegations of the Notice, Respondent consents to the issuance of this Agreement, and hereby waives any further procedural requirements with respect to its issuance. Respondent waives all rights to contest the adequacy of the notice provided and the validity of this Agreement, including all rights to any administrative or judicial hearings or appeals; provided, however, that any dispute concerning the implementation of this Agreement shall be resolved in the manner hereinafter provided.

3. This Agreement shall apply to and be binding upon PHMSA and upon Respondent, its officers, directors, employees, successors-in-interest, assigns, or any other entities or persons otherwise bound by law. Respondent agrees to provide a copy of this Agreement and any incorporated work plans and schedules to all of Marathon's officers, employees, agents, and successors-in-interest whose duties might reasonably include compliance with the terms of this Agreement.

4. Respondent agrees that each allegation of violation cited in the Notice will be considered by PHMSA as a prior offense in any future enforcement action brought against Respondent. This Agreement, however, does not constitute a finding of violation of any Federal law or regulation and may not be used in any civil proceeding of any kind as evidence or proof of any fact, fault or liability, or as evidence of the violation of any law, rule, regulation or requirement, except in a proceeding to enforce the provisions of this Agreement.

5. In exchange, Marathon agrees to complete the corrective actions specified in Section II (Regulatory Compliance), Section IV (Supplemental Safety and Environmental Project), and

Section V (Same; Documentation and Verification of Work and Expenses) of this Agreement and to pay the civil penalties specified in Section III (Civil Penalties).

II. Regulatory Compliance.

6. Within 90 days following the Effective Date (as defined below), Respondent agrees to perform the corrective actions set forth in the Proposed Compliance Order included with the Notice, as follows:

- a. Regarding Item 1 of the Proposed Compliance Order, Respondent will submit all accident reports on DOT Form 7000-1 to PHMSA, for the accident that occurred at St. James Station on January 8, 2006, and the incident in the Martinsville, Illinois, area that occurred on November 13, 2007;
- b. Regarding Item 2 of the Proposed Compliance Order, Respondent will identify any deficiencies observed during its review of personnel performance in preparing and following Marathon's Standard MPLOPR007 procedure, "Commissioning, Decommissioning, and/or Recommissioning Pipeline Systems (CDR)," during the drain line tie-in project described above, integrate the findings of such review into its training program, and provide this training to its employees. Compliance with this Item is in addition to any work performed in connection with the Project described below;
- c. Regarding Item 4 of the Proposed Compliance Order, Respondent will incorporate the installation and operation of bentonite mud plugs as a vapor barrier to isolate hazardous vapors as a covered task(s) in its operator qualification (OQ) program. In addition, Marathon will also introduce appropriate OQ methodologies and training to ensure that individuals performing this covered task(s) have the necessary knowledge and skills to perform the task(s) in a manner that ensures the safe operation of Marathon's pipeline facilities;
- d. Regarding Item 5 of the Proposed Compliance Order, Respondent will submit the results of the corrective actions set forth in this Section to the Director, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 8701 South Gessner, Suite 1110, Houston, Texas 77074, no later than 90 days from completion; and
- e. Regarding Item 6 of the Proposed Compliance Order, Respondent will maintain documentation of the safety improvement costs associated with performing the corrective actions set forth in this Paragraph and submit the total to the Director. Costs shall be reported in three categories: (a) any testing, evaluations and information analysis; (b) revisions of procedures and additional system monitoring and inspections; and (c) physical changes to pipeline infrastructure, including repairs, replacements, and other modifications.

7. The Director may grant an extension of time for Respondent to complete any of the work required by this Section II if Marathon submits a timely written request demonstrating good cause for an extension.

III. Civil Penalties.

8. Respondent agrees to pay to the United States a total civil penalty in the amount of **Eight Hundred Forty-two Thousand, Six Hundred Fifty Dollars (\$842,650.00)**, said amount being assessed by PHMSA for the following alleged violations set forth in the Notice:

- a. \$41,700, as proposed for Item 1 in the Notice, for alleged violation of 49 C.F.R. § 195.52(a);
- b. \$41,700, as proposed for Item 2 in the Notice, for alleged violation of 49 C.F.R. § 195.54(a);
- c. \$100,000, as proposed for Item 3 in the Notice, for alleged violations of 49 C.F.R. § 195.402(a);
- d. \$559,250 for Item 6 in the Notice, for alleged violation of 49 C.F.R. §§ 195.501(a)-(b) and 195.505(a); and
- e. \$100,000, as proposed for Item 9 in the Notice, for alleged violation of 49 C.F.R. § 199.105(b).

9. Payment of the \$842,650.00 must be made within 20 days of the Effective Date, as defined below. 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." 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 telephone number of the Division is (405) 954-8893.

10. Failure to pay the penalty set forth above within 20 days of the Effective Date, as defined below, will result in the 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 of a Notice of Late Payment. 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.

11. Respondent agrees that no portion of the total amount of the payment specified in this Section III will be deductible by Respondent or any of its affiliates for tax purposes.

IV. Supplemental Safety and Environmental Project.

12. Respondent agrees to undertake and complete the Supplemental Safety and Environmental Project more fully described below and in Appendix Two (SSEP or Project) in

mitigation of the proposed penalty for Item 6 of the Notice. The Project will commence not later than 30 days following the Effective Date (Start Date). The Parties agree that the Project is intended to improve the safety performance of the U.S. pipeline industry generally and to reduce the likelihood of future pipeline safety violations by Respondent. Specifically, the primary objective of the Project is to reduce the probability of releases and the risk of fire during operations and maintenance activities involving the isolation of energy in the form of hazardous vapors and liquids.

13. The Project will consist of the development and dissemination of an "Energy Isolation Guidance Document and Training Program." Respondent will complete the Project in accordance with the Project Scope of Work and Schedule, attached as Appendix Two hereto, within 42 months of the Effective Date and as outlined in three contractor proposals submitted by Marathon to PHMSA, as follows:

- a. *Proposal, Energy Isolation*, Baker Engineering and Risk Consultants, Inc., dated June 22, 2011;
- b. *Video Project Estimate*, SOS Video Communications, dated June 16, 2011; and
- c. *Proposal, Technical Toolboxes*, Inc., dated June 22, 2011.

These three proposals are hereby incorporated by reference into this Agreement. In the event of a conflict between this Agreement and any of the three proposal documents listed above, this Agreement shall control.

14. Respondent's total expenditure for the Project will be at least \$305,000 and must be expended in accordance with the provisions of this Section IV and Appendix Two. Marathon will receive no credit toward its obligation to spend at least \$305,000 by charging for the labor of its own employees, equipment, overhead, or other internal costs. If the cost of completing the work described in this Section IV and Appendix Two exceeds \$305,000, Respondent agrees to bear such costs as may be necessary to complete all of the work described in this Section IV.

15. The Director will have the authority, on the basis of reasonable justification and after consultation with Respondent, to require or agree to any reasonable modification to the Scope of Work and Schedule of the Project that the Director deems necessary to accomplish the purposes and intent of this Agreement. Any such modification must be in writing and signed by the Parties.

V. Same; Documentation and Verification of Work and Expenses.

16. Commencing 90 days after the Start Date and continuing every 90 days thereafter until submittal of the Project Completion Report, as described below, Marathon will submit quarterly progress reports to the Director describing all work performed pursuant to this Agreement during the preceding quarter and the safety impacts and implications of the Project to date. All reports, including the Project Completion Report described in Paragraph 17 below, shall be submitted to the Director, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 8701 South Gessner, Suite 1110, Houston, Texas 77074. As the person responsible for monitoring Respondent's compliance with the terms of this Agreement, the

Director may request any additional documentation, studies, or reports reasonably necessary to verify compliance with the terms hereof.

17. Not later than 90 days after completion of all the work specified in Appendix Two, Marathon must file a Project Completion Report with the Director. This report must contain, at minimum, the following information:

- a. A detailed description of the Project, as implemented;
- b. A description and analysis of the benefits of the Project, any potential or existing problems, and any changes executed during the Project pursuant to Paragraph 15 (including a quantification of the energy isolation benefits realized, if feasible);
- c. The total itemized costs of the Project; and
- d. Certification that the Project has been implemented pursuant to the provisions of this Agreement.

18. In submitting all reports under this Section V, Marathon will provide acceptable documentation of all eligible costs. If the Project Completion Report includes costs not eligible for credit under this Agreement, such costs shall be clearly identified as non-eligible expenses. For purposes of this Paragraph, the term "acceptable documentation" includes invoices, purchase orders, or other documentation that specifically identifies, itemizes, and establishes the individual costs of the goods and services for which payment was made. Canceled drafts are not acceptable documentation, unless such drafts specifically identify and itemize the individual costs of the goods and services.

19. Upon reasonable notice, PHMSA will have the right to inspect the records and facilities of Respondent to confirm that the Project is being carried out in conformity with the terms of this Agreement. Marathon further agrees, upon reasonable request from the Director, to provide PHMSA with all such records in the possession of the company's contractors that are reasonably related to execution of the Project.

20. Marathon will maintain legible copies of all relevant documentation of the underlying research and data for any and all documents or reports submitted to PHMSA pursuant to this Agreement and will provide the documentation of any such underlying research and data to PHMSA within 30 days of any written request from PHMSA. Such documentation must be retained for a period of at least five years from the date of submission of the Project Completion Report required under Paragraph 17 above. All reports required under this Agreement must include a certification signed by Marathon's president or chief executive officer, verifying, under penalty of law, that the information and representations contained in such report are true, accurate, and complete. Such certification shall include the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and in all attachments and, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I

am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

VI. Same; PHMSA Approval of Project Completion Report.

21. Within 45 days of receipt of the Project Completion Report described in Paragraph 17 above, the Director will review such report and provide Respondent with written notice of his determination, stating either: (1) that the Project has been satisfactorily completed; (2) that there are certain deficiencies in the Project Completion Report and that Respondent will be afforded additional time to correct them; or (3) that the Project has not been satisfactorily completed and whether PHMSA seeks stipulated penalties in accordance with Section VII below. If the Director's written determination is delayed beyond 45 days, Respondent may avail itself of the provisions of Paragraph 25 below.

In the event the Director exercises option (2) above (i.e., it determines that the Project Completion Report is deficient but the Director has not yet made a determination about the adequacy of the SSEP completion itself), Respondent may file a written objection to the deficiency determination within 10 days from receipt of the notice. Thereafter, the Director and Respondent will have an additional 30 days to reach agreement on changes necessary to the Project Completion Report. If agreement cannot be reached on any such issue within this 30-day period, the Director will provide a written statement of his decision on adequacy of the completion of the SSEP to Respondent. The matter shall then be referred to and adjudicated by the Associate Administrator, in accordance with Paragraph 25 below. In the event the SSEP is not completed as contemplated herein, as determined by the Associate Administrator, stipulated penalties shall be due and payable by Respondent to PHMSA in accordance with Paragraph 22 below.

VII. Stipulated Penalties.

22. If Marathon fails to comply with any of the terms of this Agreement relating to the completion of the Project or reporting thereon as provided by Paragraphs 16 and 17, Marathon will be liable for stipulated penalties according to the following provisions:

- a. For failure to complete the Project pursuant to this Agreement, Marathon will pay a stipulated penalty to the United States in the amount of one hundred fifty percent (150%) of the difference between the total amount of the Project (i.e., \$305,000.00) and the amount of money actually spent by Marathon on the Project and verified by PHMSA; such stipulated penalty shall be in addition to the total civil penalty payments (i.e., \$842,650.00) due and payable under Paragraph 8 above. For purposes of this Paragraph, the determination of whether the Project, or any portion thereof, has been satisfactorily completed shall be the decision of the Director, or as otherwise provided under Paragraph 25;
- b. For failure to submit any quarterly progress report or the Project Completion Report described in Paragraphs 16 and 17 above, Marathon agrees to pay a stipulated penalty in the amount of \$300.00 for each day after such report was originally due until it is submitted;

- c. Stipulated penalties under this Paragraph will begin to accrue on the day after performance is due, and shall continue to accrue through the final day of completion of the activity;
- d. Respondent will pay any stipulated penalties not more than 30 days after receipt of written demand by PHMSA for such penalties. Method of payment shall be the same as those set forth above in Paragraph 9; and
- e. Nothing in this Agreement shall be construed as prohibiting, altering or otherwise limiting the ability of PHMSA to seek any other remedies or sanctions available to the agency by virtue of Marathon's violation of this Agreement or of any statutes and regulations upon which it is based, or any other applicable provision of law.

VIII. Representations by Marathon.

- 23. Marathon makes the following representations concerning this Agreement:
 - a. Marathon certifies that it is not required to perform or develop the Project, or any portion thereof, by any federal, state or local law or regulation, nor is Marathon required to perform or develop the Project by any other agreement, contract, grant, or as injunctive relief in this or any other proceeding. Marathon further certifies that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the Project outlined above.
 - b. Marathon hereby agrees not to claim any funds expended in performance of the Project as a deductible business expense or credit for tax purposes.
 - c. Any public statement, oral or written, in print, film, Internet or other media, made by Respondent making reference to the Project shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, for alleged violations of the federal Pipeline Safety Laws (49 U.S.C. § 60101, *et seq.*)"

IX. Miscellaneous.

24. This Agreement constitutes the entire agreement of the Parties and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions between the Parties, whether oral or written, with respect to the subject matter herein. The terms of this Agreement will control in the event of any inconsistency with the record in this proceeding.

25. The Director and Respondent will informally attempt to resolve any disputes arising under this Agreement. If Respondent and the Director are unable to informally resolve any dispute hereunder within 15 days of either party providing notice to the other of a dispute, either party may request in writing, not later than 10 days following the expiration of said 15-day period, a written determination from the Associate Administrator for Pipeline Safety (Associate Administrator) resolving the dispute. In connection with any such request for a written

determination by the Associate Administrator, Respondent shall provide all information that the company believes is relevant to the dispute.

If the request is submitted as provided herein, the Associate Administrator will issue a final determination in writing not more than 30 days following the date of Respondent's request, which decision shall be final and binding on Respondent. The existence of a dispute and PHMSA's consideration of matters placed in dispute will not excuse, toll, or suspend any term or timeframe for completion of any work to be performed under this Agreement during the pendency of the dispute resolution process, except as agreed in writing by the Director or the Associate Administrator.

26. In the event of any transfer of ownership or operating responsibility of the St. James Terminal facility during the term of this Agreement, Marathon will provide a copy of this Agreement to the prospective transferee at least 30 days prior to such transfer and simultaneously provide written notice of the prospective transfer to the Director.

27. Nothing in this Agreement affects or relieves Respondent of its responsibility to comply with all applicable requirements of the federal Pipeline Safety Laws, 49 U.S.C. § 60101, *et seq.*, and the regulations and administrative orders issued thereunder. Nothing in this Agreement alters PHMSA's right of access, entry, inspection, and information gathering or PHMSA's authority to bring enforcement actions against Respondent pursuant to the federal Pipeline Safety Laws, the regulations and administrative orders issued thereunder, or any other provision of Federal or State law.

28. This Agreement does not create rights in, or grant any cause of action to, any person not a party to this Agreement. PHMSA is not liable for any injuries or damages to persons or property arising from acts or omissions of Respondent or its officers, employees, or agents carrying out the work required by this Agreement. Marathon agrees to indemnify and hold harmless PHMSA, its officers, employees, agents, and representatives from any and all causes of action arising from any acts or omissions of Respondent or its contractors in carrying out the work required by this Agreement.

29. Except as otherwise provided herein, this Agreement may be modified only by the mutual agreement of the Parties and set forth in writing and signed by both Parties.

30. Each undersigned representative of the Parties certifies that he is fully authorized by the party represented to enter into the terms and conditions hereof and to execute and legally bind that party to it.

X. Effective Date and Term.

31. The "Effective Date" as used herein, is the date on which this Agreement has been signed by both Respondent and PHMSA. The term of this Agreement commences upon the Effective Date and terminates upon the approval of the Project Completion Report as provided by Section VI above or as otherwise provided under Paragraph 25.

The Parties hereby agree to all conditions and terms of this Agreement:

For PHMSA:




Jeffrey D. Wiese
Associate Administrator for
Pipeline Safety

5/8/2012

Date

For Respondent:



Craig O. Pierson
President
Marathon Pipe Line LLC

4/30/12

Date





U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

8701 South Gessner, Suite 1110
Houston, TX 77074

**NOTICE OF PROBABLE VIOLATION
PROPOSED CIVIL PENALTY
AND
PROPOSED COMPLIANCE ORDER**

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

August 24, 2010

Mr. John Swearingen, President
Marathon Pipe Line LLC
539 South Main Street
Findley, Ohio 45840

CPF 4-2010-5013

Dear Mr. Swearingen:

From March to October 2009, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code conducted an investigation of a Marathon Pipe Line (Marathon) accident that occurred at the St. James Terminal, Louisiana on March 10, 2009. The accident involved the explosion of a crude oil sump located in the terminal that occurred during Marathon's execution of a Drain Line Tie-in project. Hazardous vapors were ignited by a welder beveling the drain lines for welding, using a flame cutter. The accident resulted in one fatality and three injuries.

As a result of this investigation, it appears that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violation(s) are:

1. **§195.52 Telephonic notice of certain accidents.**
 - (a) **At the earliest practicable moment following discovery of a release of the hazardous liquid or carbon dioxide transported resulting in an event described in §195.50, the operator of the system shall give notice, in accordance with paragraph (b) of this section, of any failure that:**
 - (1) **Caused a death or an injury requiring hospitalization;**
 - (2) **Resulted in either a fire or explosion not intentionally set by the operator;**
 - (3) **Caused estimated property damage, including cost of cleanup and recovery, value of lost product, and damage to the property of the operator or others, or both, exceeding \$50,000;**

- (4) Resulted in pollution of any stream, river, lake, reservoir, or other similar body of water that violated applicable water quality standards, caused a discoloration of the surface of the water or adjoining shoreline, or deposited a sludge or emulsion beneath the surface of the water or upon adjoining shorelines; or**
- (5) In the judgment of the operator was significant even though it did not meet the criteria of any other paragraph of this section.**

During the investigation, it was discovered that Marathon failed to make telephonic reports to the National Response Center for two accidents that met telephonic reporting criteria, as follows:

- On January 8, 2006 an inflatable bladder type plumber's plug failed on Marathon's Garyville 30-inch crude oil pipeline located at the LOCAP St. James Station resulting in a release of crude oil and vapors. Grinding by a contract welder ignited the crude oil vapors. The welder suffered slight burns from the resulting fire.
- On November 13, 2007 a mud plug failed on Marathon's Lima 22-inch crude oil Pipe Line (Rosedale-Roachdale) in the Martinsville, IL area resulting in a release of crude oil and vapors. The vapors ignited. No injuries resulted from the accident.

Marathon did not believe these releases were reportable due to the lack of volume released. Condition 2 does not require a specific volume release to be reportable. The fact that there was a liquid (vapor) released and a fire resulted from the release of that liquid means a notification is required.

2. §195.54 Accident reports.

- (a) Each operator that experiences an accident that is required to be reported under §195.50 shall as soon as practicable but not later than 30 days after discovery of the accident, prepare and file an accident report on DOT Form 7000-1, or a facsimile.**

As a result of this investigation, it was learned that Marathon failed to prepare and file an accident report on DOT Form 7000-1 for two accidents that met accident reporting criteria, as follows:

- On January 8, 2006 an inflatable bladder type plumber's plug failed on Marathon's Garyville 30-inch crude oil pipeline located the LOCAP St. James Station resulting in a release of crude oil and vapors. Grinding by a contract welder ignited the crude oil vapors, and the welder suffered slight burns.
- On November 13, 2007 a mud plug failed on Marathon's Lima 22-inch crude oil Pipe Line (Rosedale-Roachdale) in the Martinsville, IL area resulting in a release of crude oil and vapors. The vapors ignited. No injuries resulted from the accident.

Marathon did not believe these releases required a report due to the lack of volume released. The fact that there was liquid (vapor) released and a fire resulted from the release of that liquid requires a written report.

3. §195.402 Procedural manual for operations, maintenance, and emergencies.

- (a) General. Each operator shall prepare and follow for each Pipe Line system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a Pipe Line commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.**

Marathon failed to follow its procedures and did not properly prepare and execute Marathon Pipe Line's (MPL) Standard MPLOPR007 "Commissioning, Decommissioning, and Recommissioning Pipe Line Systems" (CDRSTD), as described below. Marathon issued "CDR No. 40001-005, Drain Line Tie-Ins, Revision 1" (CDRACT) on March 9, 2009 to cover the work to be performed on the St. James Terminal Drain Line Tie-in project. Failure to follow the MPL procedures may have contributed to the accident that occurred on March 10, 2009. The following are instances of Marathon's failure to follow its

procedures.

MPL's Lockout/Tagout (LOTO) procedures were not followed

Marathon failed to follow its procedures and did not adequately secure the facility that contained liquid or gas by not using slip blind flanges to isolate the sump drain lines as required in the CDRACT. To ensure safety during this work, CDRACT Section III, paragraph C required that MPL's LOTO procedures be followed. The LOTO procedure applies to all employees and contractors and establishes the minimum requirements for lockout and/or tagout of energy devices in which the unexpected energizing or release of stored energy could cause injury to personnel or have a negative environmental impact or damage equipment. The steps to be taken for LOTO are included in Marathon's Standard MPLJES306, Energy Isolation Policy (Lock Out Tag Out) which requires in Section 7.5.6 the use of and the installation of slip blind flanges to isolate and make the work area safe. The Contractor used its own Hot Work/Confined Space Work Permit form to ensure compliance with Marathon's CDRACT. However, it was not completed correctly. Contrary to the isolation requirement of the CDRACT, the Lockout/Tagout requirements of Section VI, Isolation to isolate the work area of hazardous vapors was checked "N/A" by the preparer. The CDRACT in Section III, Paragraph C required that Marathon's Lockout/Tagout procedures be followed. The Lock Out/Tag Out process was partially completed. Marathon and its contractor tagged and locked many valves, etc. before work started on the Drain Line Tie-In. However, slip blind flanges to isolate the 2-inch and the 4-inch drain lines from the sump were not installed. The use of Energy Isolation Devices, such as slip blind flanges, are required because valves that could have been used to isolate the sump lines had not yet been installed on the 2-inch and 4-inch sump drain lines terminating at the sump.

All key on-site personnel did not attend a pre-job safety meeting

Marathon failed to follow its procedure which requires that "The Pre-job safety meeting shall be attended by all key on-site Contractors and Subcontractors". Marathon was asked for and provided a list of all "key contractors". This list was compared to a list of attendees in the Job Safety Analysis (JSA) and indicates that not all key contractor or Marathon personnel involved in the Drain Line Tie-In project work were present in the meeting when the JSA was conducted and work assignments for the work day were identified and made. Marathon's Contractors are required to follow the requirements of Marathon's Standard TNLSFT002, Contractor Safety Program, and included in this standard are requirements for contractors to have pre-job meetings and to require key employees attend these meetings. These requirements are included in two sections of the standard. Section 2.2.1.1 of the standard requires a pre-job meeting before commencement of work and Section 2.2.1.2 requires attendance by all key on-site Contractors and Subcontractors.

Continuous monitoring for hazardous vapors in the excavation work area was not performed

Marathon failed to make the work area safe by not continuously monitoring for hazardous vapors (LEL and H₂S) as required in Section III, J of the CDRACT. PHMSA views continuous monitoring as uninterrupted in time, sequence, substance, or extent. Marathon did not provide records to demonstrate that the contractor monitored continuously during welding and/or hot work activity. The Contractor's Hot Work/Confined Space Work Permit shows that the monitoring was only performed three times. Additionally, from interviews following the accident, it was learned that the hazardous vapors monitor was not in the excavation work area when the work was being performed but instead was with the Firewatch, who was not in the excavation work area but near the track hoe. Effective monitoring can only be performed when the monitor's tube is placed near or adjacent where the hazardous fumes would be in contact with the source of ignition (the flame cutter), and the monitor should have been continuously utilized in the excavation work area during work activities. After the accident, tests were performed on the monitor that was utilized during the drain line tie-in work. The test results indicated that the monitor was functioning properly at the time of the accident, that it was capable of monitoring continuously, but it was not capable of recording the data.

The excavation work area in the Drain Line Tie-in project was not considered a confined space
Marathon failed to identify the excavation work area as a confined space and include Marathon's Standard TNLHES310 "Confined Space Entry" in the CDRACT. A Hazardous Confined Space is defined by Marathon in Standard TNLHES310 in section 7.7.1 as a space that "contains or has a potential to contain a hazardous atmosphere". Marathon's Contractor in its "Excavation Safety Inspection Checklist" noted that the depth of the excavation was to be 6-feet. Additionally, MPL Standard TNLHES310, states that a work area with certain characteristics such as those described as 7.7.5.9 as entry into a confined space where welding, cutting or other spark-producing operations are performed should be considered as Hazardous Confined Space entries. Had the CDR considered the excavation work area where the welding and cutting was to be performed during the Drain Line Tie-In as a confined space, critical safety steps (e.g.; monitoring equipment must have the calibration checked (bump test) or else a full calibration performed prior to each day's use) that could have prevented the accident would have been required to have been performed.

4. §195.402 Procedural manual for operations, maintenance, and emergencies.

(a) General. Each operator shall prepare and follow for each Pipe Line system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a Pipe Line commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

Marathon failed to prepare and follow the necessary procedure for the installation of mud plugs. Section VII of the CDRACT, Section B, Work Sequence Item #3 requires the installation of "mud plug on both lines if LELs are present". Marathon utilized bentonite Mud Plugs during the Drain Line Tie-in project for the isolation of hazardous vapors from the sump into the work area. A procedure for installing bentonite Mud Plugs was not included in the CDR, and Marathon failed to provide a procedure for installing the bentonite Mud Plugs. While Marathon's Standard MPLMNT04 "Pipe Replacement" describes the use of bentonite Mud Plugs when making tie-ins similar to that on the Drain Line Tie-in project, the standard was not included in the CDR. The unreferenced standard states in Section 3.16.8 that all vapor plugs (including bentonite Mud Plugs) should be operated per the manufacturer's recommendations and procedures; however, Marathon did not demonstrate that the manufacturer's recommendations and procedures were available and followed during the installation and operation of the bentonite Mud Plugs. During this investigation, PHMSA could not find any manufacturer's recommendations for the use of bentonite clay as a vapor barrier mud plug.

5. §195.402 Procedural manual for operations, maintenance, and emergencies.

(a) General. *(see above)*

(c) Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:

(6) Minimizing the potential for hazards identified under paragraph (c)(4) of this section and the possibility of recurrence of accidents analyzed under paragraph (c)(5) of this section.

The regulations require that operators prepare procedures to provide safety during maintenance and normal operations. There were three Marathon accidents caused by ineffective hazardous vapor isolation. Marathon investigated each of these accidents prior to the accident of March 10, 2009. The investigations did not result in actions that minimized the reoccurrence of subsequent accidents specifically the March 10, 2009 accident.

There have been three Marathon accidents caused by ineffective hazardous vapor isolation since 2001, as follows:

1. November 13, 2007 - Martinsville Area, IL - Lima 22-inch Crude (Rosedale-Roachdale). Mud plug failed releasing liquid and hazardous vapors. The vapors ignited. No injuries.
2. December 12, 2002 - Houston-Centennial Area, Beaumont, TX- Creal Springs 24-26-inch Product line. While purging the atmospheric drain line system with nitrogen, water was pushed through an isolation mud plug. No injuries.
3. March 20, 2001 - Woodpat Crude Oil Pipe Line, Marion Co. IL. Mud pack failed and vapors from the released hazardous liquid ignited. Five contractor employees were injured.

Marathon investigated these accidents, and the recommendations and actions taken based on analysis of information on the prior accidents did not result in sufficient minimization of the possibility of a recurrence, as required by §195.402(c)(6), to prevent the accident that occurred at the St. James Terminal, Louisiana on March 10, 2009. Since the March 10, 2009 accident, Marathon has conducted investigations and identified specific recommendations and areas of improvement to minimize the possibility of recurrence of accidents involving energy isolation, specific procedures for the use of mud plugs, and revisions to Marathon's CDR standard which were communicated to PHMSA in a letter, dated November 13, 2009. Marathon should continue to evaluate the effectiveness of the changes that have been implemented as a result of the investigations into the March 10, 2009 accident to ensure the changes are effective in sufficiently minimizing the possibility of recurrence of accidents.

6. **§195.501 Scope.**

(a) **This subpart prescribes the minimum requirements for operator qualification of individuals performing covered tasks on a pipeline facility.**

(b) **For the purpose of this subpart, a covered task is an activity, identified by the operator, that:**

- (1) **Is performed on a pipeline facility;**
- (2) **Is an operations or maintenance task;**
- (3) **Is performed as a requirement of this part; and**
- (4) **Affects the operation or integrity of the pipeline.**

§195.505 Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

- (a) **Identify covered tasks;**

Marathon failed to identify a covered task in its Operator Qualification (OQ) program. A covered task performed during the Drain Line Tie-in project (use of bentonite mud plugs to isolate hazardous vapors) was not found to be in Marathon's OQ program, and no records were made available showing that this task was in the OQ program. The covered task not identified in Marathon's OQ Plan that contributed to the March 10, 2009 accident involves the installation and operation of bentonite mud plugs as a vapor barrier to isolate hazardous vapors. Isolation of hazardous vapors in a pipeline meets all of the criteria of the four part test as the task is performed on a pipeline facility; is a maintenance task required for performing certain repairs or modifications; is performed as a requirement of this part for performing certain repairs or modifications; and affects the operation or integrity of the pipeline. Marathon includes in its OQ Plan other covered tasks covering methods used for isolation purposes (e.g.: #17 "Operate hot tap machine"; # 43 "Install freeze plug"; # 52 "Isolate and drain pipeline"; # 86 - Install stopples), but there is no covered tasks for isolation of a pipeline using bentonite mud plugs to isolate hazardous vapors.

7. **§195.505 Qualification program.**

Each operator shall have and follow a written qualification program. The program shall include provisions to:

(b) Ensure through evaluation that individuals performing covered tasks are qualified;

Marathon failed to ensure through evaluation that individuals were qualified. Marathon failed to provide records or any other documentation to demonstrate compliance with the requirements of the OQ program. A covered task was performed during the Drain Line Tie-in project (use of bentonite mud plugs to isolate hazardous vapors) but no records were made available showing that this task was in the OQ program; and no records were made available showing that individuals were qualified to perform the covered task of installing and operating bentonite mud plugs as a vapor barrier to isolate hazardous vapors.

8. **§195.505 Qualification program.**

Each operator shall have and follow a written qualification program. The program shall include provisions to:

(h) After December 16, 2004, provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities;

Marathon did not provide training, as appropriate, to ensure that individuals performing the covered task of installing and operating bentonite mud plugs as a vapor barrier to isolate hazardous vapors had the necessary knowledge and skills to perform the task in a manner that ensured the safe operation of pipeline facilities during the Drain Line tie-in project at the St. James Terminal, Louisiana on and around March 10, 2009.

9. **§ 199.105 Drug tests required.**

(b) *Post-accident testing.* As soon as possible but no later than 32 hours after an accident, an operator shall drug test each employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. An operator may decide not to test under this paragraph but such a decision must be based on the best information available immediately after the accident that the employee's performance could not have contributed to the accident or that, because of the time between that performance and the accident, it is not likely that a drug test would reveal whether the performance was affected by drug use.

Nine surviving employees were identified by Willbros as being present at the accident site in their email, dated July 8, 2009, response to PHMSA's request. These nine employees are required to be drug tested by the regulations because their *performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident*. However, Marathon failed to test six of the nine Willbros' employees. Neither Marathon nor Willbros provided documentation to indicate why this testing was not performed as required by the regulations.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of

violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$1,071,400 as follows:

Item number	PENALTY
1.	\$ 41,700
2.	\$ 41,700
3.	\$ 100,000
6.	\$ 788,000
9.	\$ 100,000

Warning Items

With respect to item 5, we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to promptly correct these item(s). Be advised that failure to do so may result in Marathon being subject to additional enforcement action.

Proposed Compliance Order

With respect to item(s) 2, 3, 4, 6, 7, and 8 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Marathon Pipe Line Co. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled Response Options for Pipe Line Operators in Compliance Proceedings. Please refer to this document and note the response options. Be advised that all material you submit in response to this enforcement action is subject to being made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b). If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order.

In your correspondence on this matter, please refer to CPF 4-2010-5013 and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,



R. M. Seeley
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration

Enclosure: *Proposed Compliance Order*
Response Options for Pipeline Operators in Compliance Proceedings

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Marathon Pipe Line LLC (Marathon) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Marathon with the Pipeline safety regulations:

1. In regard to Item Number 2 of the Notice pertaining to Marathon's failure to submit an accident reports on DOT Form 7000-1, or a facsimile to PHMSA within 30 days for a fire that occurred at St. James Station on January 8, 2006 and in the Martinsville, Il area on November 13, 2007, Marathon must submit this report within 90 days following receipt of the Final order.
2. In regards to Item Number 3 of the Notice, Marathon must identify deficiencies observed during the review of personnel performance in preparing and following Marathon's Standard MPLOPR007 "Commissioning, Decommissioning and/or Recommissioning Pipeline Systems (CDR)" procedure while executing the Drain Line Tie-in project, integrate the findings into its training program, and provide this training to its employees within 90 days following receipt of the Final Order.
3. In regards to Item Number 4 of the Notice, Marathon must prepare a procedure for the installation of mud plugs within 90 days following receipt of the Final Order.
4. In regards to Item Number 6, 7 and 8 of the Notice pertaining to Marathon's failure to include in its Operator Qualification Program the installation and operation of bentonite mud plugs as a vapor barrier to isolate hazardous vapors as a covered task(s) and provide appropriate qualification methodologies and training to ensure that individuals performing the covered task(s) have the necessary knowledge and skills to perform the task(s) in a manner that ensures the safe operation of pipeline facilities.
5. Submit the results of the Proposed Compliance Order item above to Mr. R. M. Seeley, Region Director, Southwest Region, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 8701 South Gessner, Suite 1110, Houston, TX 77074.
6. Marathon Pipe Line LLC shall 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. Costs shall 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.

APPENDIX TWO PROJECT SCOPE OF WORK AND SCHEDULE

DEVELOPMENT OF ENERGY ISOLATION GUIDANCE DOCUMENT AND TRAINING PROGRAM

Introduction

Respondent will undertake and complete a Supplemental Safety and Environmental Project (Project) intended to reduce the probability of releases and the risk of fire during operations and maintenance activities involving the isolation of energy in the form of hazardous vapors and liquids. The Project seeks to accomplish this goal by reducing the likelihood that Marathon will experience future accidents similar to the one giving rise to this Agreement, by developing a set of practices for energy isolation that can benefit the industry generally, and by encouraging industry awareness of improved practices to protect life, property and the environment.

The Project will consist of four parts:

- (A) Energy Isolation Assessment and Improvement Study
 - (1) Assess energy isolation practices and procedures applied by U.S. hazardous liquid (petroleum) pipeline operators and by Respondent and develop energy isolation techniques that can enable industry improvement.
 - (2) Test mud plug installations to identify limitations and reliable installation practices.
- (B) Develop a comprehensive Energy Isolation Guidance Document.
- (C) Develop two Training Programs, one that will be provided to all affected Respondent employees and one that will be made available to the pipeline industry and the pipeline contractor industry.
- (D) Share the Energy Isolation Guidance Document and the Training Program within the pipeline industry and the pipeline contractor industry.

These four parts are more particularly described as follows:

A. Energy Isolation Assessment and Improvement Study

The assessment of industry practices and procedures will be based upon a detailed review of policies and procedures solicited from a sampling of pipeline companies operating hazardous liquids (petroleum) pipelines, as well as from observation of Respondent field practices. Respondent or its contractor will solicit policies and procedures from at least 15 companies and exercise reasonable efforts to secure useful responses from at least 10. For purposes of such solicitations, the identities of the responding pipeline companies shall remain anonymous, and Respondent's contractor shall remove identifying information from documentation they submit.

The findings of the assessment will be compiled into a report. Mud plug effectiveness testing will involve a range of variables such as pipe size, temperature and humidity, along with determining optimum mud mix ratios.

B. Development of Guidance Document

Based upon the findings of the foregoing assessment and testing, a comprehensive Energy Isolation Guidance Document will be developed that will present the findings of the assessment and testing and will present recommended guidance for appropriate application of energy isolation practices in various situations. The recommended guidance will be consistent with existing PHMSA requirements and relevant guidance documents. Marathon will submit the draft Guidance Document to the Director for review and approval before proceeding with Parts C and D of the Project. The Director will provide Respondent with a response within 30 days of submission of the draft Guidance Document.

Respondent shall contract with Baker Engineering and Risk Consultants, Inc. to execute the work described within BakerRisk Proposal No. P5009, Energy Isolation, dated June 22, 2011, for Parts A and B of the Project.

Project Cost Estimate: \$185,000 – \$225,000

Project Schedule – Weeks from Start Date:

<u>Task</u>	<u>Weeks to Completion</u>
• Conduct Detailed Review of Industry Standards, Practices and Procedures	12 weeks.
• Assess Respondent Energy Isolation Standards and Procedures	12 weeks.
• Testing of Mud Plugs	14 weeks.
• Develop Paper on Single and Double Block and Bleed Valve Isolation	12 weeks.
• Develop Draft Comprehensive Energy Isolation Guidance Document	25 weeks.
• Director Review and Approval of Guidance Document	29 weeks.

C. Development of Training Programs

(1) Respondent will contract with SOS Video Communications to develop video presentations based upon the Energy Isolation Guidance Document as described within SOS Video Communications Proposal and Estimate, Project No. 43366, dated June 16, 2011.

(2) A professionally produced Training Program will be developed by Respondent's training professionals, based upon the Energy Isolation Guidance Document and the resulting video presentations. The Training Program will be the basis for the training of affected Respondent employees. Respondent's training personnel will use visual aids and written materials for the classroom, along with hands-on training.

Project Cost Estimate: \$82,533 (SOS Video Communications)

Project Schedule – Weeks from Start Date:

<u>Task</u>	<u>Weeks to Completion</u>
• Develop Video Presentations	49 weeks.
• Train Respondent Employees	75 weeks.

D. Sharing/Dissemination of the Energy Isolation Guidance Document and Training Program

Availability of both the Energy Isolation Guidance Document and the Training Program video presentations will be publicized within the pipeline industry and the pipeline contractor industry through a plan of dissemination (Communications Plan) to be executed by Technical Toolboxes, Inc. (Technical Toolboxes), a pipeline consulting and training firm, which plan will include packaging and promotion over a 2-year period.

Respondent will contract with Technical Toolboxes to execute the Communications Plan and disseminate the Energy Isolation Guidance Document and Training Program as described within the Technical Toolboxes Proposal dated June 22, 2011.

Project Cost Estimate: \$16,000

Project Schedule – Weeks from Start Date:

<u>Task</u>	<u>Weeks to Completion</u>
• Communications Plan:	59 weeks.

Availability of the Energy Isolation Guidance Document and the Training Program will be subject to appropriate disclaimers and limitations on liability.

Alternate Service Providers

In the event that a service provider becomes unable or unwilling to provide the service that is the subject of a proposal to conduct a portion of the Project, Respondent promptly will retain a qualified alternate provider of the same or similar services in consultation with the Director. Respondent will provide the name and qualifications of such alternate provider in advance for the review and approval of the Director.