

JUL 14 2010

Mr. Kevin Clement
President
SemStream, LP
6120 South Yale Avenue
Suite 700
Tulsa, Oklahoma 74136-4216

Re: CPF No. 5-2009-5001

Dear Mr. Clement:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and finds that SemStream, LP, has completed the actions specified in the Notice to comply with the pipeline safety regulations. Therefore, this case is now 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. Chris Hoidal, Director, Western Region, PHMSA

CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7005 1160 0001 0039 0683]

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

)	
In the Matter of)	
)	
SemStream, LP,)	CPF No. 5-2009-5001
)	
Respondent.)	
)	

FINAL ORDER

Between July 27 and July 31, 2008, 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 SemStream, L.P., (SemStream or Respondent) in Sidney, Montana. Specifically, OPS inspected an 8.8-mile highly volatile liquid (HVL) pipeline that transports propane and butane from a processing facility to SemStream’s Sidney, Montana terminal. SemStream, a subsidiary of SemGroup, L.P., stores and transports natural gas liquid products throughout the United States.¹

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated January 15, 2009, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that SemStream had violated 49 C.F.R. §§ 195.214, 195.230 and 195.577 and proposed ordering Respondent to take certain measures to correct the alleged violations.

SemStream responded to the Notice by letters dated February 9, 2009 and June 23, 2009 (collectively, Response). SemStream did not contest the allegations of violation but provided information concerning the corrective actions it had taken. SemStream did not request a hearing and therefore has waived its right to one.

¹ On July 22, 2008, SemGroup, L.P., and certain of its direct and indirect subsidiaries and affiliates, including SemStream, LP, filed voluntary petitions in federal court seeking protection under Chapter 11 of the United States Bankruptcy Code. *See In re SEM Crude, L.P., et al*, Case No. 08-11525, U.S. Bankruptcy Court, District of Delaware. Notwithstanding those filings, the issuance of this Final Order is permitted under 11 U.S.C. § 362(b)(4) (2006) (“The filing of a petition [in bankruptcy] . . . does not operate as a stay . . . of the commencement or continuation of an action or proceeding by a governmental unit . . . to enforce such governmental unit’s or organization’s police and regulatory power, including the enforcement of a judgment other than a money judgment, obtained in an action or proceeding by the governmental unit to enforce such governmental unit’s or organization’s police or regulatory power. . .”).

FINDING OF VIOLATION

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

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.214(a), which states:

§ 195.214 Welding Procedures.

(a) Welding must be performed by a qualified welder in accordance with welding procedures qualified under Section 5 of API 1104 or Section IX of the ASME Boiler and Pressure Vessel Code (incorporated by reference, *see* § 195.3). The quality of the test welds used to qualify the welding procedure shall be determined by destructive testing....

The Notice alleged that Respondent violated 49 C.F.R. § 195.214(a) by using a welding procedure for the construction of the Sidney HVL Pipeline System which was not qualified under API Standard 1104, Section 5. Specifically, the Notice alleged that the operator's welding procedure (ML-01) did not meet the requirements of API 1104, Section 5.6.2.3.² Respondent had developed the procedure by using Diamond Shamrock Refining and Marketing Company's procedures which were destructively tested in 1999. However, Respondent's specific procedure, ML-01, was not qualified using destructive testing. 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. § 195.214(a) by using a welding procedure that was not qualified under Section 5 of API 1104.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 1 for violation of 49 C.F.R. § 195.214. 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. The Director has indicated that Respondent has taken the following actions specified in the proposed compliance order:

² AM. PETROLEUM INST., STANDARD 1104 § 5.6.2.3 (19th ed. 1999, errata October 31, 2001).

With respect to the violation of 49 C.F.R. § 195.214 (Item 1), SemStream responded by letter on February 9, 2009 stating that they had requalified the welding procedure and provided the new Procedure Qualification Record. PHMSA requested further information by email on March 17, 2009. SemStream provided a revised qualification by email on May 11, 2009.

Accordingly, I find that compliance has been achieved with respect to this violation. Therefore, the compliance terms proposed in the Notice are not included in this Order.

WARNING ITEMS

With respect to Items 2 and 3, 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. § 195.230 (**Item 2**) — Respondent's alleged failure to repair unacceptable welds (#s 999 and 960) during construction of the Sidney HVL Pipeline System; and

49 C.F.R. § 195.577 (**Item 3**) — Respondent's alleged failure to alleviate interference currents. SemStream appeared to have stray current on its HVL Pipeline System.

SemStream demonstrated in its Response that it had taken certain actions to address the cited items. Accordingly, having considered such information, I find, pursuant to 49 C.F.R. § 190.205, that probable violations of 49 C.F.R. § 195.230 (Notice Item 2) and 49 C.F.R. § 195.577 (Notice Item 3) have occurred and Respondent is hereby advised to correct such conditions. In the event that 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