

**DEC 23 2009**

Mr. Dwayne M. Burton  
Vice President  
Gas Pipeline Operations and Engineering  
Kinder Morgan Energy Partners, L.P.  
One Allen Center  
500 Dallas Street, Suite 1000  
Houston, TX 77002

**Re: CPF No. 3-2007-5020**

Dear Mr. Burton:

Enclosed is the Final Order issued in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$133,000. I acknowledge receipt of your wire transfer of \$133,000 on August 2, 2007, and accept it as payment in full of the civil penalty assessed herein. This case is now closed. Your receipt of the Final Order constitutes service of that document 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. Ivan Huntoon, Director, Central Region, PHMSA

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7005 0390 0005 6162 5240]**

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

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<b>In the Matter of</b>	)	
	)	
<b>Kinder Morgan Energy Partners, L.P.,</b>	)	<b>CPF No. 3-2007-5020</b>
	)	
<b>Respondent.</b>	)	
	)	

**FINAL ORDER**

On July 2, 2007, in accordance with 49 C.F.R. § 190.207, the Director, Central Region, Pipeline and Hazardous Materials Safety Administration (PHMSA), issued to Respondent a Notice of Probable Violation and Proposed Civil Penalty (Notice) following an investigation of the August 12, 2006 failure involving Kinder Morgan’s (Kinder Morgan or Respondent) 8” Pipeline 106W. The failure occurred at an above-ground crossing of the Des Plaines River near Lemont, Will County, Illinois. Kinder Morgan is one of the largest pipeline transportation companies in North America, with more than 37,000 miles of natural gas and hazardous liquid pipelines.

The Notice proposed finding that Respondent committed a violation of 49 C.F.R. Part 195 and assessing a civil penalty of \$133,000 for the alleged violation. Respondent responded to the Notice by letter dated August 2, 2007. Respondent submitted a wire transfer in the amount of the proposed civil penalty (\$133,000), thereby waiving further rights to respond and authorizing the entry of this Final Order.

Pursuant to 49 C.F.R. § 190.213 and 49 U.S.C. § 60122, I hereby find that Respondent violated the following section of 49 C.F.R. Part 195, as more fully described in the Notice:

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 195.583(b), which states:

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

(a) ....

(b) During inspections you must give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water.

The Notice alleged that Respondent violated 49 C.F.R. § 195.583(b) by failing, during the company's regular inspections for atmospheric corrosion, to give particular attention to spans over water. Specifically, it alleged that Kinder Morgan failed to identify corrosion pitting requiring repair during the March 7, 2006 atmospheric corrosion inspection at the pipe support on the Des Plaines River bridge.

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

Although Respondent submitted a wire transfer in the amount of the proposed penalty thereby waiving its right to contest the Notice, the company still took issue with the amount of the penalty. It raised several questions regarding the criteria and data used by PHMSA to determine the penalty amount. First, it argued that PHMSA neither objected to the company's procedures for assessing atmospheric corrosion nor cited it for failing to follow such procedures. Instead, PHMSA cited the company for failing to properly classify and correct the corrosion that had been discovered during a routine inspection. Second, Respondent contended that Kinder Morgan's North System, where the failure occurred, had only been cited for one prior safety violation within the last five years. Third, it argued that while there was a release of product (i.e., 1,419 barrels of butane) as a result of the failure, there had been no ignition, personal injury, or property damage.

I reject Respondent's arguments that the penalty is excessive. On the contrary, the accident investigation and Violation Report make clear that Kinder Morgan's own personnel failed in March 2006 to give particular attention to the corrosion discovered at the failure site and to properly classify it in accordance with the company's own procedures. The fact that Kinder Morgan suffered a failure at this same location six months later demonstrates the need for operators to pay particular attention to the presence of corrosion on bridges and other spans over water. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$133,000, which amount has already been paid.

The terms and conditions of this Final Order shall be effective upon receipt.

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Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

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Date Issued