



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

400 Seventh St. S.W.
Washington, D.C. 20590

SEP 20 2004

Mr. Jerry Milhorn
Vice President Operations
Kinder Morgan GP, Inc.
500 Dallas Street (One Allen Center)
Suite 1000
Houston, TX 77002

Re: CPF NO. 56512

Dear Mr. Milhorn:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation, recognizes the corrective actions taken by Respondent, and withdraws the proposed civil penalty.

Based on the recommendation of the Director, Western Region, this case is now closed and no further enforcement action is contemplated with respect to the matters involved in the case. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Thank you for your cooperation in our joint effort to ensure pipeline safety.

Sincerely,

James Reynolds
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DEPARTMENT OF TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, DC 20590

In the Matter of

Kinder Morgan GP, Inc.,
(formerly Calnev Pipe Line Company)

Respondent.

CPF NO. 56512

FINAL ORDER

On September 26, 1996, pursuant to 49 U.S.C. § 60105(a), a representative of the California State Fire Marshal, acting as an agent for the inspection of interstate pipelines for the Western Region, Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of Respondent's pipeline facilities and records for the 8- and 14-inch pipeline running between Colton, California and the California/Nevada border. The subject pipeline is 446 miles in length. At the time of the inspection, the operator of the pipeline was Calnev Pipe Line Company. As a result of the inspection, the Director, Western Region, OPS, issued to Respondent, by letter dated November 5, 1996, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had violated 49 C.F.R. §§ 195.401(b), 195.416(b), and 195.416(i), and proposed assessing civil penalties of \$34,000, \$4,800, and \$5,000, respectively for the alleged violations.

Respondent responded to the Notice by letter dated December 4, 1996 (Response). Respondent offered information to explain the alleged violations, described some of the corrective actions it was taking to address the violations, and requested a hearing. By agreement of the parties, a hearing was held by telephone on April 2, 1997. Respondent submitted additional information in correspondence dated March 31, April 1, and May 8, 1997.

FINDINGS OF VIOLATION

The Notice alleged that Respondent had violated 49 C.F.R. §§ 195.401(b), 195.416(b), and 195.416(i). Each of these violations is addressed below.

1. 49 C.F.R. § 195.401(b) General requirements.

Item 1 in the Notice alleged Respondent violated 49 C.F.R. § 195.401(b), by failing to correct a condition that could adversely affect the safe operation of its pipeline system within a reasonable time. Specifically, the Notice alleged that Respondent failed to take action prior to the next read cycle to correct pipe-to-soil potentials which were below the negative 850 MV DC criteria listed in the company procedures. According to Respondent's records, there were 44 instances in which low pipe-to-soil potentials were not addressed by the next read cycle, and 12 instances in which low pipe-to-soil potentials were not addressed for two consecutive read cycles.

In its Response and during the hearing, Respondent stated that it became necessary to replace several cathodic protection systems due to ground bed depletion. Respondent sought to initiate anode replacement as well, but stated that it encountered problems in obtaining permits to perform work on the National Park Service lands where the anodes are located. Respondent asserted that nearly all of its pipelines are located in hot and dry desert, which results in dry ground beds and high soil resistivity. Furthermore, Respondent stated that it conducts its cathodic surveys during the driest time of year (i.e., July through September) which yields results that are not representative of the remainder of the year.

While the above statements provide an explanation for the delay in action, Respondent has nonetheless violated 49 C.F.R. § 195.401(b) by failing to correct a condition that could affect the safe operation of its pipeline system. The adverse conditions described above have been taken into account in the civil penalty determination.

2. 49 C.F.R. § 195.416(b) External corrosion control.

Item 2 in the Notice alleged that Respondent violated 49 C.F.R. § 195.416(b), by failing to adequately maintain test leads so that electrical measurements could be obtained to ensure sufficient protection. Specifically, the Notice alleged that at the time of inspection, 25 test leads identified for repair were not repaired prior to the next read cycle, and seven test leads identified for repair were not repaired for two consecutive read cycles. The test leads were located on Respondent's 8- and 14-inch pipelines.

In its Response and during the hearing, Respondent stated that many of the broken test leads had been repaired "many times over" on previous occasions. Respondent stated that its test leads were often located on busy street corners or in isolated areas likely to be subject to vandalism. Respondent argued that the broken test leads do not reflect a lack of interest, and offered as evidence the expense incurred in addressing these repairs.

While the details described above provide an explanation for the numerous broken test leads, Respondent has nonetheless violated 49 C.F.R. § 195.416(b). The circumstances surrounding these violations have been taken into account in the civil penalty determination.

3. 49 C.F.R. § 195.416(i) External corrosion control.

Item 3 in the Notice alleged that Respondent violated 49 C.F.R. § 195.416(i), by failing to clean, coat, and maintain each component in its pipeline system that is exposed to the atmosphere. Specifically, the Notice alleged that Respondent failed to maintain the coating on its 8-inch pipeline at Milepost 83.363. This portion of the pipeline had been identified as needing paint in 1994 and 1995, and no action was taken by Respondent.

In its Response and during the hearing, Respondent stated that the portion of the pipe which was exposed was “originally painted”, but was in need of repainting. Respondent confirmed that the pipe was eventually repainted and does not appear as an exception on Respondent’s 1996 cathodic protection survey. Respondent also argued that the pipeline exhibited no signs of pitting or other metal loss, primarily because the exposed pipe is located in the high desert, where surface corrosion typically does not occur. (Response, p. 2).

Respondent’s corrective action has been taken into account in the penalty determination.

Accordingly, I find that Respondent violated 49 C.F.R. §§ 195.401(b), 195.416(b), and 195.416(i). These findings of violation will be considered as prior offenses in any subsequent enforcement action taken against Respondent.

PENALTY ASSESSMENT

49 U.S.C. § 60122 and 49 C.F.R. § 190.225 require that, in determining the amount of the civil penalty, I consider the following criteria: nature, circumstances, and gravity of the violation, degree of Respondent's culpability, history of Respondent's prior offenses, Respondent's ability to pay the penalty, good faith by Respondent in attempting to achieve compliance, the effect on Respondent's ability to continue in business, and such other matters as justice may require.

The Notice proposed assessing a civil penalty of \$43,800. Following issuance of the Notice, Respondent took several actions that exceeded the regulatory requirements described in, and mandated by, the NOPV. These actions included: (1) completion of an internal inspection survey, thus providing an additional margin of safety for those portions of the pipeline that did not receive adequate cathodic protection for extended periods of time; (2) investigation and, as warranted, repair of all moderate and severe anomalies identified as a result of the internal inspection tool survey; (3) completion of the cathodic protection work list enclosed in Respondent’s May 8, 1997 correspondence, including an IR voltage drop free survey of the entire 8- and 14-inch pipeline systems; and (4) mapping of cathodic test stations with global positioning system technology compatible with OPS mapping standards. They have shared that data with OPS. In addition, as discussed previously, Respondent’s failure to correct the adverse condition was due in part to difficulties in obtaining needed permits.

The Director, Western Region has recommended, and I concur, that no penalty should be assessed in this case. Accordingly, the proposed civil penalty has been withdrawn.

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



Stacey Gerard
Associate Administrator
For Pipeline Safety

SEP 20 2007

Date Issued