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United States Senate OFFICE OF
EXTERNAL AFFAIRS

WASHINGTON, DC 20510-1401

October 25, 2007

2007 OCT 30 P 4: 07

FEDERAL ENERGY
REGULATORY COMMISSION

Mr. Thomas Kelliher
Chairman
Federal Energy Regulatory Commission
Intergovernmental & Public Affairs
888 First Street, N.E., Room 1111
Washington, D.C. 20426

PUCO

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RECEIVED-DOCKETING DIV

Dear Mr. Kelliher:

Because of the desire of this office to be responsive to all inquiries and communications,
your consideration of the attached is requested.

Your findings and views, in duplicate form, along with the return of the enclosure, will be
greatly appreciated. Please direct your reply to the attention of Darlee McCollum of my
Washington office.

Thank you for your thoughtful attention.

Sincerely,



Richard G. Lugar
United States Senator

RGL: egd
Enclosure

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September 29, 2007

Senator Richard Lugar
10 West Market Street, Suite 1180
Indianapolis, IN 46204

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Dear Senator Lugar:

Last July I sent you a copy of a letter I had written to Harold Winnie, spokesman for PHMSA relative to the REX East pipeline project. My letter questioned the process by which REX was granted significant construction waivers by PHMSA before the public or state agencies affected by the project were even aware what was going on.

Mr. Winnie called to discuss this matter with me last week, and I appreciate the effort your office made to encourage him to do so. However, I was disappointed in the answers he gave me relative to the waivers and other points of discussion we had during our conversation. I will briefly explain these points in hopes that you can help further investigate the questions that I have.

First, Mr. Winnie says the construction waivers relative to thickness of the pipeline and the MAOP of the gas to flow through the line were granted early because REX had to get the pipeline on order from the manufacturer so that it could make its project deadlines. Was this project approved before the waivers were granted? If so, who approved the project? If so, were there any public hearings about approval of the project? Why would REX hurry to get the pipeline on order if the plan hadn't been approved already? This would be financially risky for them if they were not assured of the approval. Is someone in the government (Department of Energy, I guess) working on behalf of REX at the expense of the safety or opinion of the taxpayers?

I also asked Mr. Winnie about the discrepancy between the plan presented to PHMSA that said that the REX line would use the same easements as existing pipeline along 90% of its path, but by the time was shown to affected landowners this number was down to 50%. Mr. Winnie said they probably had to change their route. If they had to change their route that significantly, why wouldn't they have to resubmit their plan to PHMSA for an updated approval based on the big changes they made? I understand that PHMSA can withdraw the waivers at any time and I would believe that this significant of a route change would make them want to reconsider.

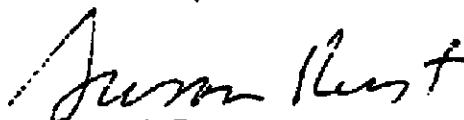
Another question I brought up to Mr. Winnie was about Kinder Morgan's pipeline safety record. Kinder Morgan (majority owner of REX) did the studies that were the basis for the granted safety waivers. At around the same time these waivers were granted, the DOT and PHMSA cited Kinder Morgan for poor pipeline safety procedures and required them to spend \$90 million to upgrade and maintain their lines. They are also on notice that PHMSA will monitor their performance very closely. I have enclosed public articles about these matters for you to see. Mr. Winnie said he isn't aware of any problems with Kinder Morgan's safety history. How on one hand is this company being taken to task

for safety issues by PHMSA, while on the other hand it is being granted waivers (by the same agency) from existing safety standards based on the research done by the cited company? Note that Kinder Morgan continues to have safety problems.

Mr. Winnie and I discussed several other facets of this project but the three points I have mentioned here are those that concern me most. This project is going to affect thousands of residents of Indiana who have been good citizens. They have paid their taxes, served loyally in the military and volunteered for countless projects that serve the whole country. My own daughter went to a perilous area of the world for the Peace Corps. We all deserve better from our federal government than this process, which has left us out of the decision making process and has made us and our property vulnerable to greedy, arrogant gas industry profiteers who are not concerned about our safety. I want you to step up and investigate this process and the department and individuals involved in it. I look forward to the answers to my questions.

I don't have much hope that the REX project will be changed, but future projects need to have much more scrutiny put on them in an open forum. I would say that it's a bad day when loyal Americans lose hope in the governmental processes. The public and our elected representatives, not bureaucrats and professional deal makers should be making the decisions that affect so many.

Thank You,



Susan A. Rust
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Greensburg, IN 47240
PH: 812-663-2500
susanrust@insightbb.com

cc. Indiana Senator Robert Jackman
Harold Winnie, PHMSA
Kimberly Bose, FERC
Carl Weimer, Pipeline Safety Trust
Congressman Mike Pence



**AMERICAN
ECONOMY**

**U.S. Department of Transportation
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Washington, D.C.
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News

PHMSA 02-05
Thursday, August 25, 2005

Contact: James Wiggins/Damon A. Hill
Tel.: (202) 366-4831

Transportation Department Orders Kinder Morgan to Address Rise in Pipeline Incidents

The U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) today announced it ordered Kinder Morgan Energy Partners (KMEP) to address a recent increase in incidents along its hazardous liquids pipeline system. The agency issued a Corrective Action Order requiring KMEP to comprehensively address integrity threats along the entire 3,900-mile Pacific Operations unit.

The order requires a thorough analysis of recent incidents, a third-party independent review of operations and procedural practices, and a restructuring of KMEP's internal inspection program. KMEP must have a revised integrity management plan submitted to PHMSA for approval within 120 days. Failure to comply may result in an assessment of civil penalties of as much as \$100,000 per day.

Since January 1, 2003, KMEP has experienced at least 44 accidents with some 14 resulting in the release of more than five barrels of refined petroleum products, some in or near environmentally sensitive areas or major transportation corridors.

"Our investigations into these incidents identified inadequacies in Kinder Morgan's interpretation of in-line inspection information to evaluate and repair their pipeline systems," said PHMSA Acting Chief Safety Officer Stacey Gerard. "It is imperative for operators to utilize the most comprehensive set of technologies available to improve their ability to consistently characterize and address every possible threat their systems pose to public safety."

Recent PHMSA investigations of these accidents, and reviews of KMEP's operations and procedures, prompted the agency Order requiring KMEP to apply technologies and procedures to help evaluate its pipelines, Gerard said.

PHMSA pipeline engineers and agency State Pipeline Safety Program partners will continue to carefully monitor and scrutinize KMEP's activities.

-END-

**U.S. Department of Transportation
Office of Public Affairs
Washington, D.C.
www.dot.gov/affairs/briefing.htm**

News

**PHMSA 1-06
Monday, April 10, 2006**

**Contact: James Wiggins (202) 366-4978
Damon Hill (202) 366-4424
Office Tel.: (202) 366-4831**

Federal Pipeline Safety Agency Reaches Agreement with Kinder Morgan to Address Integrity Threats and Increased Rate of Incidents

The Pipeline and Hazardous Materials Safety Administration (PHMSA) today announced it has reached an agreement with Kinder Morgan Energy Partners over systemwide safety upgrades in six Western states. This agreement between federal regulators and Kinder Morgan followed several pipeline accidents and is expected to result in up to \$90 million worth of safety improvements.

The agreement covers the 3,900-mile Kinder Morgan's Pacific Operations unit in Arizona, California, Nevada, New Mexico, Oregon and west Texas. The Pacific Operations unit includes the CALNEV and Santa Fe Pacific Pipelines and associated bulk terminals, but does not include the Carbon Dioxide or Cypress systems. The improvements include those made in response to an Aug. 24, 2005 PHMSA order that required Kinder Morgan to evaluate the safety and reliability of its pipelines.

PHMSA will require Kinder Morgan to review all accidents occurring on its Pacific Operations system since March 31, 2001 and identify and repair any existing or potential safety threats. The agreement also requires the company to improve its methods for inspecting the interior of pipelines, including the use of improved technology to better locate damage caused by outside forces. In addition, Kinder Morgan will be required to evaluate its effectiveness in controlling pipeline corrosion, and to submit for PHMSA approval its procedures for preventing damage through "one-call" centers that determine if a pipeline is located where excavation is taking place. PHMSA incorporated into the agreement an innovative penalty structure that will subject Kinder Morgan to fines ranging from \$1,000 to \$10,000 per day if it fails to comply with the agreement.

"Companies have an obligation to maintain and ensure the safety of their systems," said PHMSA Acting Administrator Brigham A. McCown. "Kinder Morgan has made a significant commitment to safety under this agreement," he said.

Recent PHMSA accident investigations and reviews of Kinder Morgan's operations prompted the agency's August order. PHMSA pipeline engineers and state pipeline safety program partners will continue to carefully monitor Kinder Morgan's activities for safety assurance.

-END-

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Story**Oil pipeline bursts in Montgomery Co.****A Kinder Morgan pipe ruptured causing a 12,000 gallon oil spill on Thursday.**

By Jeremy Viray
Posted: Friday, September 07, 2007 at 7:49 p.m.

MONTGOMERY COUNTY – "It's a piece of property we use for hunting and fishing. We have a lake there, but what I understand is that there is crude oil in there right now," says property owner Dan Froneyberger.

In fact, the broken pipe left 12,000 gallons of oil that now blankets his land.

It all happened Thursday afternoon on Lincoln School Road off of Route CC, just northwest of Montgomery City.

For nearby residents Tom and Phyllis Harvey, they knew something was wrong once they stepped outside and smelled the strong vapors Thursday afternoon. That's when the county asked them to evacuate their homes.

Representatives from the company that owns the pipeline, Kinder Morgan, were on site Thursday. Officials do not know the cause of the spill.

Kinder Morgan officials say the spill is under control, but possible rains could pose a problem in the cleanup.

"Obviously rain water would potentially overflow our system because of the volume that we have, but we're making provisions to deal with rain water if it comes," explains Kinder Morgan spokesman Dean Dick.

Though there are not any long term health risks for residents, Dick says there are recovery risks.

"It's flammable vapors that you smell, so we have to be careful about the people we put in there."

"You always imagine the worse....apparently it's a lot more serious than we thought," says Froneyberger.

Investigations are underway to find the cause of the break and will continue for the next several days.

As the cleanup continues, Kinder Morgan officials say they did not have a chance to assess the exact location of the ruptured pipe. Officials tell us the pipeline has been shut down. No word yet on when it will reopen. The Kinder Morgan pipeline stretches from Wyoming to Illinois.

Related Links

- [Kinder Morgan](#)

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Date: Fri, 21 Sep 2007 13:31:22 -0700

Subject: [safepipelines] Kinder Morgan to pay \$15 million for Walnut Creek blast

Energy firm to pay \$15 million for Walnut Creek blast that killed 5
 Henry K. Lee, Chronicle Staff Writer
 Friday, September 21, 2007

(09-21) 12:02 PDT WALNUT CREEK - An energy company has been convicted of six felony counts and will pay \$15 million in connection with a 2004 gasoline pipeline explosion in Walnut Creek that killed five construction workers, Contra Costa County prosecutors said today.

Attorneys for KMGP Services Co. Inc., a subsidiary of Kinder Morgan Energy Partners, entered no-contest pleas this morning before Superior Court Judge Terence Bruiniers in Martinez.

The company will pay a \$10 million fine in the criminal case and an additional \$5 million to end a related civil prosecution, Deputy District Attorney Lon Wixson said.

"We're happy with it," said Wixson, who filed charges against the company Thursday after a lengthy investigation. "We think it's fair. We think it's appropriate."

Tom Bannigan, president of Kinder Morgan's products pipeline business, said in a statement, "We extend our deepest sympathies to the families and individuals affected by this tragic accident. While it can never make up for the losses associated with this incident, we hope that accepting our share of responsibility and reaching these settlements will help bring closure to this matter."

The families of the five men who were killed and others who were injured by the blast have reached separate civil settlements totaling at least \$69 million with Kinder Morgan and other companies that were involved in the incident, including Mountain Cascade Inc. of Livermore, a contractor for the East Bay Municipal Utility District.

Only Kinder Morgan, the nation's largest underground fuel shipper, was criminally charged.

The explosion occurred Nov. 8, 2004, when a Mountain Cascade backhoe operator was installing a water-district main near Newell Avenue and South Broadway and punctured a high-pressure Kinder Morgan pipeline.

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Kinder Morgan had failed to mark a bend in the line, according to state workplace safety regulator Cal/OSHA, which found the Houston company primarily at fault and fined it \$140,000. The state fire marshal fined Kinder Morgan \$500,000. The company has appealed both fines.

Killed in the blast were project foreman Tae Chin "Gene" Im, 47; Javier Ramos, 35; Israel Hernandez, 36; Victor Rodriguez, 28; and Miguel Reyes, 43. The fireball also seriously injured welders Jeremy Knox and Roger Paesch and crane operator Patrick Farley.

The plea agreement signed by Kinder Morgan says that the company was the "proximate cause of the explosion and the ultimate deaths and injuries that were involved here," Wixson said.

Last year, the federal Pipeline and Hazardous Materials Safety Administration Office of Pipeline Safety and Kinder Morgan agreed that the company would provide system-wide safety upgrades in six Western states. The upgrades were expected to result in up to \$90 million worth of safety improvements.

E-mail Henry K. Lee at hlee@sfgchronicle.com.

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