

Pipelines Are *Not* the Safest Petroleum Delivery Method & Kinder Morgan Is *Not* the Safest Pipeline Company

Contrary to Kinder Morgan's representations, spills from all other sources combined, including tanker trucks, railroads, tank ships, and tank barges are five times less than spills from pipelines. Although it is difficult to make perfect comparisons due to various data sources, according to the American Petroleum Institute, the leading trade organization for the fossil fuel industry, from 1998 to 2007, the average amount of refined petroleum products spilled from various sources is as follows:

- Pipelines: 76,754 barrels
- Railroads: 1,431 barrels
- Tanker trucks: 9,180 barrels
- Tank ships: 3,598 barrels
- Tank barges: 5,429 barrels
- Total: 96,393 barrels

According to these numbers, pipelines accounted for 80% of refined petroleum products spilled from 1998 to 2007.

Examples of Kinder Morgan's shoddy safety & Illegal Behavior:

On November 9, 2004 in Walnut Creek, California, a high pressure oil pipeline owned by a Kinder Morgan subsidiary exploded, ignited in an explosive 60-foot high fireball, caused significant property damage including destruction of a home, seriously injured four workers, and killed five other workers. Kinder Morgan pleaded no contest to six felonies and agreed to pay a \$15 million in civil and criminal fines.¹ Additionally, Kinder Morgan ended up paying more than \$69 million to 17 victims in civil lawsuits stemming from the explosion.²

Due to the Walnut Creek disaster and numerous other leaks and spills in western states, Kinder Morgan reached an agreement with PHMSA on April 10, 2006 to spend as much as \$90 million to improve its safety program after PHMSA found "widespread failure" to protect its pipelines.³

¹ See <http://www.dir.ca.gov/dirnews/2005/ir2005-20.html>; http://www.mercurynews.com/crime/ci_6970300.

² See http://www.mercurynews.com/crime/ci_6970300.

³ *Id.*

In another November 2004 incident, an oil pipeline owned by a Kinder Morgan subsidiary burst in the Mohave Desert, sending a jet of fuel 80 feet into the air. The break closed the nearby interstate highway and contaminated over 10,000 tons of in habitat for the federally endangered gopher tortoise, a species that exists in Georgia.⁴

On April 28, 2004, a long stretch of corroded Kinder Morgan pipeline discharged 123,774 gallons of diesel fuel into Suisun Marsh, the largest salt water wetland in the western United States and home of several species of water fowl and the endangered salt marsh harvest mouse. The spill tarred shorelines and significantly impacted or killed many mammals and birds. The pipeline ran right through the marsh raising significant concerns regarding Kinder Morgan's proposed route for the Palmetto pipeline which will go through portions of Georgia's coastal wetlands and cross numerous streams and major river bodies that flow to and through Georgia's unique and invaluable coastal marsh system. Notably, the Suisun Marsh disaster was not reported to the appropriate authorities as required by California law until almost 20 hours after Kinder Morgan was aware of a significant drop in pressure on the pipeline. Kinder Morgan paid \$5.3 million in fines to resolve state and federal environmental violations related to this incident and two more minor incidents on the same pipeline.⁵

In May 2005, a Kinder Morgan Natural Gas Pipeline of America 30-inch diameter pipeline exploded near Marshall, Texas, sending a giant fireball into the sky and hurling a 160-foot section of pipe onto the grounds of an electric generating plant. Two plant employees were injured, the plant was shut down, and 40 people were evacuated. The cause was stress corrosion cracking.⁶

On July 24, 2007, the Trans Mountain Pipeline, operated by Kinder Morgan, ruptured in Burnaby, British Columbia after a backhoe broke the improperly marked line. The rupture caused a 150-foot geyser to shoot into the air raining down on houses and two lanes of traffic, required the evacuation of 250 people, and in just 25 minutes released over 250,000 litres of crude oil with 15,000 litres flowing into Burrard Inlet. The

⁴ See http://www.epa.gov/osweroe1/docs/oil/fss06/key_2.pdf.

⁵ See http://www.solano.courts.ca.gov/materials/Suisun_Marsh_Oil_Spill.pdf; <http://yosemite.epa.gov/opa/admpress.nsf/d0cf6618525a9efb85257359003fb69d/4bbf4038800cedd6852572e200711592>.

⁶ See http://primis/phmsa.dot.gov/comm/reports/enforce/documents/420051011H/cpf_420051011H.pdf?nocache=8618.

required cleanup cost \$15 million, and two contractors and Trans Mountain pleaded guilty to a 21 count indictment.⁷

On November 4, 2008, Plantation Pipeline Company (owned primarily by Kinder Morgan), entered into a consent decree settling a lawsuit with the U.S. Department of Justice stemming from Clean Water Act violations from pipeline spills over a period of six years in Georgia, North Carolina, and Virginia. Plantation Pipeline also was cited for failing to prepare and implement a required spill prevention, control, and countermeasure plan for a 420,000 gallon storage tank in Newington, Virginia. The settlement required Plantation to pay a \$715,000 penalty to the federal government's Oil Spill Liability Trust Fund. Plantation was also required to implement \$13 million in spill prevention safeguards.⁸

On September 23, 2008, a Kinder Morgan pipeline exploded and burned for more than 10 hours in Pasadena, Texas. One person died, and another was injured. The cause of this "significant event" was corrosion. The Pasadena pipeline experienced at least 18 "significant incidents" from 2004 to 2013.⁹

In May 2009, near Palm City, Florida, a Kinder Morgan Florida Gas Transmission Company natural gas pipeline ruptured and blew out 106 feet of pipe weighing 5,000 pounds which landed in the right-of-way between Interstate 95 and the Florida Turnpike and near a high school that was within the 366-foot potential impact radius. Two people were injured when their car ran off the road as a result of the blast.¹⁰

On November 16, 2011, near Gloucester, Ohio, a weld failed on a Kinder Morgan Tennessee Gas Pipeline causing a leak that exploded with a resulting crater 30 feet across and 15 feet deep. Three homes were destroyed by fire. The weld failed due to inadequate design, materials and

⁷ See <http://www.cbc.ca/news/canada/british-columbia/3-companies-plead-guilty-to-burnaby-oil-spill-1.1005862>.

⁸ See <http://www.justice.gov/archive/opa/pr/2008/November/08-enrd-980.html>.

⁹ See "Pipeline at Pasadena plant explodes," Eric James (September 24, 2008), ABC Eyewitness News, Houston, Texas, <http://abc13.com/archive/6408372/> (accessed June 17, 2014); "Texas Significant Incidents Listing," 2003-2014, PHMSA Pipeline Safety Stakeholder Communication, U.S. DOT, http://primis.phmsa.dot.gov/comm/reports/safety/IncDetSt_st_TXflt_sig.html?nocache=8751 (accessed June 17, 2014).

¹⁰ See NTSB pipeline accident brief DCA09FP007.

workmanship, exceeding the operational limits, gaps in integrity management, and earth movement.¹¹

In June 2012, in Gray County, Texas, a 50-foot section of Kinder Morgan Natural Gas Pipeline of America pipeline ruptured, ignited, blew a 30-foot crater, and burned two acres of land, two 500 gallon tanks used to store liquid fertilizer, and two telephone poles and transformers. State Highway 52 was closed for several hours.¹²

On June 18, 2013, in Louisiana, a Kinder Morgan Florida Gas Transmission Company pipeline ruptured and exploded requiring the evacuation of 50 homes. The blast knocked down trees in a 200 yard area and burned everything within another 300 yards. The dirt in and around the resulting crater looked like it had been cooked in a kiln.¹³

On December 8, 2014, in Belton, South Carolina, a Kinder Morgan Plantation Pipeline petroleum pipeline ruptured and spilled approximately 370,000 gallons of refined petroleum products. The leak was caused by a failed sleeve on the pipeline and was discovered only after dead vegetation was noticed nearby. The tardy discovery belies Kinder Morgan's representations that it has early detection systems in place and sufficient shut-off valves that can timely control leaks with minimal impact to property owners and the environment. Approximately 2, 832 tons of soil have been removed and treated to date, and only approximately half of the spilled petroleum products (approximately 177,000 gallons) have been recovered. Cleanup efforts are still continuing over five months after the leak was discovered. The cleanup effort has required the installation of 71 monitoring wells, 20 recovery sumps, 15 recovery wells, and two recovery trenches. Kinder Morgan originally reported that only 8,000 gallons of product had leaked when, in fact, 8,800 barrels had leaked. There are 42 gallons of product per barrel.¹⁴

¹¹ See <http://www.dispatch.com/content/stories/local/2011/11/16gas-pipeline-explodes-in-athens-county.html>; <http://www.10tv.com/content/stories/2011/11/16/athens-county-explosion.html>; <http://www.10tv.com/content/stories/2011/11/16/athens-county-flames-worse-seem/html>; <http://bloximages.chicago2.vip.townnews.com/athensohiotoday.com/content/tncms/assets/v3/editorial/a/8a/a8aab150-cf7f-11e1-8a70-001a4bcf887a/500471418c9e3.pdf>.

¹² See PHMSA Corrective Action Order, CPF NO. 4-2012-1011H.

¹³ See "Gas line explosion rattles Washington Paris," Baton Rouge Advocate, June 26, 2013 at <http://theadvocate.com/home/6283023-125/gas-pipeline-explosion-in-franklinton> (accessed August 8, 2014).

¹⁴ See <http://www.blufftontoday.com/bluffton-news/2015-05-03/sc-leak-patched-cleanup-continues#.VUvjA5O2UgU>.

The above-described incidents are merely a small representative sampling of the hundreds of leaks, spills, and accidents that have characterized Kinder Morgan's pipeline operations all across the United States for many years until the present time. Additional cause for concern is Kinder Morgan's many instances of dishonest behavior including bribery and outright fraud.

For example, in one 2003 incident, Kinder Morgan illegally dumped contaminated potassium chloride into the Pacific Ocean rather than pay landfill charges to dispose of it properly. The dumping, according to dock workers, was accomplished by bribing a ship captain \$1,100 to haul 159 tons of the contaminated material and dump it. Almost five years later, Kinder Morgan pled guilty to violating the Ocean Dumping Act and agreed to pay a fine of \$240,000.¹⁵

The bribery case in Oregon is not an isolated example. According to the FBI, between 1997 and 2001, Kinder Morgan systematically defrauded its own customers including the Tennessee Valley Authority. Kinder Morgan did so by using two different methods for weighing coal provided to its customers from Kinder Morgan's Cora Terminal in Illinois. Operators used certified scales to weigh incoming coal delivered by rail cars, but then weighed outgoing coal to its customers by "barge draft." This resulted in weights that were two to three times heavier than the certified scale weights. Kinder Morgan claimed it was shipping the same amount of coal it had received when that was clearly not the case. Kinder Morgan then sold the excess coal as its own coal.

The same FBI investigation discovered that Kinder Morgan outright stole coal from its customer stockpiles at its Grand River Terminal in Kentucky. As a result of these fraudulent practices in Illinois and Kentucky, Kinder Morgan agreed to a \$25 million settlement with the U.S. government.¹⁶

Kinder Morgan's dishonorable and illegal activity did not stop in Illinois and Kentucky. Kinder Morgan settled another case in 2007 with the U.S. Environmental Protection Agency by paying a fine of \$613,000 for violations of the federal Clean Air Act. In that case, federal regulators caught Kinder Morgan illegally mixing an industrial solvent, a dangerous

¹⁵ See http://www.wweek.com/portland/article-7447-voyage_to_the_bottom_of_the_sea.html; <http://www.oregonlive.com/business/oregonian/index.ssf?/base/business/1208917515292290.xml>.

¹⁶ See <http://www.prnewswire.com/news-releases/kinder-morgan-agrees-to-25-million-civil-settlement-for-unauthorized-sales-of-customers-coal-59896332.html>.

hazardous waste called a “cyclohexane mixture,” into unleaded gasoline and diesel. Kinder Morgan distributed 8,000,000 gallons of the contaminated fuel which caused vehicles to break down by clogging their fuel filters.¹⁷

In 2010, the U.S. Department of Justice discovered that Kinder Morgan had been outright lying on its Clean Air Act permit applications to the federal government with respect to its Port Manatee Terminal in Florida. The company repeatedly stated that it would control its pollution when the company knew that its pollution control equipment was not even being used and was not being properly maintained. Kinder Morgan was fined \$1,000,000 for these deliberate violations.¹⁸

In addition to all of the above, Wall Street has raised serious concerns regarding Kinder Morgan’s maintenance practices that it believes should cause equal concern by the communities located near its facilities. For example, Kevin Kaiser, a senior analyst with the hedge fund investment firm Hedgeye has published a highly critical report of Kinder Morgan entitled “Is Kinder Morgan Maintaining its Stock Prices Instead of its Assets?” Hedgeye flatly states that “Kinder Morgan’s high level business strategy is to starve its pipelines and related infrastructure of routing maintenance spending.” The report documents several instances where the company has slashed maintenance spending on some of its pipelines by 90%.

Kinder Morgan’s shareholders are even concerned. In February 2014, a shareholder filed a lawsuit alleging that Kinder Morgan had taken \$3.2 billion out of Kinder Morgan Energy Partners, one of Kinder Morgan’s affiliated pipeline companies, money that is needed for maintenance of pipelines and other energy infrastructure. In fact, the lawsuit attributes some of Kinder Morgan’s pipeline incidents to this raiding of capital from Kinder Morgan’s affiliated company.¹⁹

The respected financial magazine *Barron’s* has also raised concerns regarding Kinder Morgan’s failure to allocate and spend sufficient monies for maintenance. In February 2014, *Barron’s* quoted an analyst at

¹⁷ See <http://www2.epa.gov/enforcement/kinder-morgan-consent-agreement-and-final-order>.

¹⁸ See

http://cfpub.epa.gov/compliance/criminal_prosecution/index.cfm?action=3&prosecution_summary_id=2065.

¹⁹ <http://www.bloomberg.com/news/articles/2014-02-06/kinder-morgan-sued-by-investor-over-pipeline-distributions-1->

investment banking firm Jefferies: “We struggle to understand how KMP [Kinder Morgan Partners] can safely operate the largest portfolio of transmission and storage assets in the industry for just a fraction of its peers’ expenditures.” By the term “fraction,” Jefferies meant the fact that Kinder Morgan spends only half as much as Spectra Energy, another major pipeline operator, spends on maintenance per mile of pipeline.²⁰

Based on Kinder Morgan’s deplorable record of pipeline disasters, its deliberate business practices designed to starve its pipelines of proper maintenance, and its criminal, fraudulent, and deceitful practices, the only public need Kinder Morgan has proven is the need for the public to stay as far away from them as possible.

²⁰ <http://online.barrons.com/news/articles/SB50001424053111903713804579394913023088996>