



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

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

July 5, 2002

Mr. Dan C. Tutcher
President
Enbridge Energy Company, Inc.
Suite 2950
1100 Louisiana
Houston, TX 77002-7002

Re: CPF No. 3-2002-5017

Dear Mr. Tutcher:

Enclosed is a Corrective Action Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. Service is being made by certified mail and telecopy. Your receipt of the enclosed document constitutes service of that document under 49 C.F.R. § 190.5. The terms and conditions of this Corrective Action Order are effective upon receipt.

Sincerely,

Gwendolyn M. Hill
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

VIA CERTIFIED MAIL (RETURN RECEIPT REQUESTED) AND TELECOPY

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

In the Matter of
Enbridge Energy Company, Inc.
Respondent.

CPF No. 3-2002-5017

CORRECTIVE ACTION ORDER

Purpose and Background

This Corrective Action Order is being issued, under authority of 49 U.S.C. § 60112, to require Enbridge Energy Company, Inc. (Enbridge), to take the necessary corrective action to protect the public and environment from potential hazards associated with its 34"-diameter Line 4 pipeline. The pipeline system originates in Gretna, Manitoba, Canada transporting crude oil south to Superior, Wisconsin. The Office of Pipeline Safety (OPS) has found that corrective action is necessary to determine the cause, and prevent possible recurrence, of the pipeline failure that occurred on July 4, 2002.

On July 4, 2002, at approximately 1:15 AM CDT, a release of approximately 3,000 to 6,000 barrels of crude oil occurred from the pipeline at milepost (MP) 1003.1, approximately ½ mile west of the city of Cohasset, Minnesota. The release was contained in an open marsh area.

Pursuant to 49 U.S.C. § 60117, the Central Region, OPS, initiated an investigation of this incident.

Preliminary Findings

- On July 4, 2002, at approximately 1:15AM CDT Enbridge's 34"-diameter Line 4 pipeline failed at MP 1003.1, approximately ½ mile west of the city of Cohasset, Minnesota, in Itasca County. The rupture location was downstream of the Deer River Pump Station (MP 995.83) in an open marsh area. The release was approximately 1/4 mile west of Pincherry Road, on the west side of Cohasset. The failure resulted in the release of approximately 3000 to 6000 barrels of crude oil.
- Indications of a pressure drop at 1:15 AM CDT on July 4, 2002 were noticed at Enbridge's Edmonton Control Center. The leak was confirmed at 6:57 AM CDT, and the NRC was notified at 6:59 AM CDT the same day.
- No injuries or fatalities occurred.

- To control the release, the Minnesota Pollution Control Agency initiated a controlled burn, which is ongoing as of the writing of this order.
- The pipeline is owned and operated by Enbridge and transports crude oil from Gretna, Manitoba, Canada, to Superior, Wisconsin.
- The Enbridge pipeline was installed in 1967 and traverses through the city of Superior, Wisconsin. The Superior Terminal is located at MP 1096.95. The pipeline crosses environmental areas.
- The release occurred on a 49 mile segment of the pipeline that runs from the Deer River Pump Station to the Floodwood Pump Station (1044.33). This segment is constructed with 0.312-inch wall thickness, API 5L-X52, double-submerged-arc-welded (DSAW) pipe manufactured by U.S. Steel.
- The Deer River to Floodwood segment has a maximum operating pressure (MOP) of 687 psig. The segment was last pressure tested in 1991.
- The operating pressure in effect at the time of the release at approximately 1:15 AM CDT on July 4, 2002, is unknown.
- The cause of the incident is currently unknown as the investigation is on-going and all facts have not yet been determined.
- The failed pipe has not yet been viewed by investigators as the site has not been deemed safe for investigative efforts.
- The pipeline was the subject of a hazardous facility order in 1991.

Determination of Necessity for Corrective Action Order and Right to Hearing

Section 60112 of Title 49, United States Code, provides for the issuance of a Corrective Action Order, after reasonable notice and the opportunity for a hearing, requiring corrective action, which may include the suspended or restricted use of a pipeline facility, physical inspection, testing, repair, replacement, or other action as appropriate. The basis for making the determination that a pipeline facility is hazardous, requiring corrective action, is set forth both in the above referenced statute and 49 C.F.R. §190.233, a copy of which is enclosed.

Section 60112, and the regulations promulgated thereunder, provide for the issuance of a Corrective Action Order without prior opportunity for notice and hearing upon a finding that failure to issue the Order expeditiously will result in likely serious harm to life, property or the

environment. In such cases, an opportunity or a hearing will be provided as soon as practicable after the issuance of the Order.

After evaluating the foregoing preliminary findings of fact, I find that the continued operation of this pipeline without corrective measures would be hazardous to life, property and the environment. Additionally, because of the location of the pipeline with respect to populated and environmental areas, and the uncertainties as to cause of the failure, I find that a failure to issue expeditiously this Order, requiring immediate corrective action, would result in likely serious harm to life, property, and the environment.

Accordingly, this Corrective Action Order mandating needed immediate corrective action is issued without prior notice and opportunity for a hearing. The terms and conditions of this Order are effective upon receipt.

Within 10 days of receipt of this Order, the Respondent may request a hearing, to be held as soon as practicable, by notifying the Associate Administrator for Pipeline Safety in writing, delivered personally, by mail or by telecopy (at (202) 366-4566). Any hearing will be held in Kansas City, Missouri, or Washington, D.C. on a date that is mutually convenient to OPS and the Respondent.

After receiving and analyzing additional data in the course of this investigation, OPS may identify other longer term measures that need to be taken. Respondent will be notified of any additional measures required and amendment of this Order will be considered. To the extent consistent with safety, Respondent will be afforded notice and an opportunity for a hearing prior to the imposition of any additional corrective measures.

Required Corrective Action

Pursuant to 49 U.S.C. § 60112, I hereby order Enbridge to immediately take the following corrective actions with respect to its 34"- diameter Line 4 pipeline.

With respect to the Deer River Pump Station to the Superior Terminal (MP 1096.95) segment:

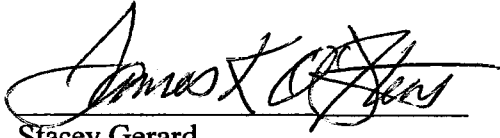
1. Do not operate this segment until completing Items 3 and 4.
2. Conduct a detailed metallurgical analysis of the pipe that failed on July 4, 2002 to determine the cause and contributing factors. Submit to the Regional Director, Central Region, OPS, within one week of its receipt by Enbridge Energy Company, Inc.
3. Submit a return-to-service written plan, with a schedule, to verify the integrity of the line from the Deer River Pump Station to the Superior Terminal. The plan must provide integrity testing that addresses all known or suspected factors in the failure, including if relevant:

- A. Internal inspection tool surveys and remedial action. The type of internal inspection tools used shall be technologically appropriate for assessing the system based on the type of failure that occurred on July 4, 2002, with emphasis on identifying and evaluating the following: 1) anomalies associated with dents, gouges and grooves; 2) metal loss due to corrosion; 3) the orientation of the longitudinal seam of the pipe; 4) pipe deformation, and 5) longitudinal cracks, mill defects and stress corrosion cracking.
 - B. A detailed description of the inspection and repair criteria that will be used in the field evaluation of the anomalies that are excavated. This is to include a description of how any defects are to be graded and the schedule for repairs or replacement.
 - C. An evaluation of the line for areas of damaged or disbanded coating, including but not limited to, a close-interval, current interrupted, pipe-to-soil potential survey.
 - D. Integration of all available data from internal inspections, metallurgical analyses, and historical data, including repair and cathodic protection records.
 - E. Hydrostatic pressure testing of line segment.
 - F. A schedule and means for providing the results and data for testing programs performed to the Central Region.
4. Each element of the plan must be approved by the Director, Central Region, OPS, who may provide approvals incrementally. Implement the plan as approved.
5. Submit the plan to Director, Central Region, Office of Pipeline Safety, Research and Special Programs Administration, 901 Locust Street, Suite 462, Kansas City, MO 64106-2641.
6. The Director, Central Region, OPS, may grant an extension of time for compliance with any of the terms of this order for good cause. A request for an extension must be in writing.

The procedures for the issuance of this Order are described in Part 190, Title 49, Code of Federal Regulations, § 190.233, a copy of which is enclosed, is made part of this Order and describe the Respondents' procedural rights relative to this Order.

Failure to comply with this Order may result in the assessment of civil penalties of not more than \$25,000 per day and in referral to the Attorney General for appropriate relief in United States District

Court.



St
Stacey Gerard
Associate Administrator
for Pipeline Safety

July 5, 2002

Date Issued

each violation, and if any violation is a continuing one, each violation constitutes a separate violation.

A person who is determined to be in violation of any standard or order under § 60103 shall be subject to a fine of not to exceed \$50,000, in addition to any other penalties to which such person is subject under paragraph (a) of this section.

A person shall be subject to a fine under this section for the violation of any requirement of this section and an order issued under § 190.219 or § 190.233 if both violations are based on the same act.

Mar. 27, 1980, as amended by 49 FR 32344, Aug. 7, 1989; Amdt. 190-5, Apr. 26, 1996; 61 FR 38403.

Assessment considerations.

The Associate Administrator, OPS shall consider the following factors in determining the civil penalty under this part:

(1) Nature, circumstances and extent of the violation;

(2) Degree of the respondent's knowledge of the violation;

(3) Respondent's history of prior violations;

(4) Respondent's ability to pay; and

(5) Good faith by the respondent to achieve compliance; and

Amount of penalty.

For payments exceeding \$10,000, a civil penalty imposed under this subpart shall be:

(1) For a violation of any requirement of this section and an order issued under § 190.219 or § 190.233 if both violations are based on the same act, a fine of not more than \$50,000, in addition to any other penalties to which such person is subject under paragraph (a) of this section.

\$10,000 must be made by wire transfer. Payments, or in the case of wire transfers, notices of payment, must be sent to the Chief, General Accounting Branch (M-86.2), Accounting Operations Division, Office of the Secretary, room 2228, Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590.

(b) Payment of a civil penalty assessed in a final order issued under § 190.213 or affirmed in a decision on a petition for reconsideration must be made within 20 days after receipt of the final order or decision. Failure to do so will result in the initiation of collection action, including the accrual of interest and penalties, in accordance with 31 U.S.C. 3717 and 49 CFR part 89.

[Amdt. 190-7, 61 FR 27792, June 3, 1996]

CRIMINAL PENALTIES

§ 190.229 Criminal penalties generally.

(a) Any person who willfully and knowingly violates a provision of 49 U.S.C. 60101 *et seq.* or any regulation or order issued thereunder shall upon conviction be subject for each offense to a fine of not more than \$25,000 and imprisonment for not more than five years, or both.

(b) Any person who willfully violates a regulation or order under this subchapter issued under the authority of 49 U.S.C. 5101 *et seq.* as applied to offshore gas gathering lines shall upon conviction be subject for each offense to a fine of not more than \$25,000, imprisonment for a term not to exceed 5 years, or both.

(c) Any person who willfully and knowingly injures or destroys, or attempts to injure or destroy, any interstate transmission facility or any interstate pipeline facility (as those terms are defined in 49 U.S.C. 60101 *et seq.*) shall, upon conviction, be subject for each offense to a fine of not more than \$25,000, imprisonment for a term not to exceed 15 years, or both.

(d) Any person who willfully and knowingly defaces, damages, removes, destroys any pipeline sign, right-of-way marker, or marine buoy required by 49 U.S.C. 60101 *et seq.* or 49 U.S.C. 5101 *et seq.*, or any regulation or order issued thereunder shall, upon conviction, be subject for each offense to a

fine of not more than \$5,000, imprisonment for a term not to exceed 1 year, or both.

(e) No person shall be subject to criminal penalties under paragraph (a) of this section for violation of any regulation and the violation of any order issued under § 190.217, § 190.219 or § 190.229 if both violations are based on the same act.

[45 FR 20413, Mar. 27, 1980, as amended by Amdt. 190-2, 54 FR 32344, Aug. 7, 1989; Amdt. 190-4, 56 FR 63770, Dec. 5, 1991; Amdt. 190-6, 61 FR 18515, Apr. 26, 1996]

§ 190.231 Referral for prosecution.

If an employee of the Research and Special Programs Administration becomes aware of any actual or possible activity subject to criminal penalties under § 190.229, the employee reports it to the Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. The Chief Counsel refers the report to OPS for investigation. Upon completion of the investigation and if appropriate, the Chief Counsel refers the report to the Department of Justice for criminal prosecution of the offender.

[Amdt. 190-5, 61 FR 18515, Apr. 26, 1996]

SPECIFIC RELIEF

§ 190.233 Hazardous facility orders.

(a) Except as provided by paragraph (b) of this section, if the Associate Administrator, OPS finds, after reasonable notice and opportunity for hearing in accord with paragraph (c) of this section, and § 190.211(a), a particular pipeline facility to be hazardous to life or property, the Associate Administrator, OPS shall issue an order pursuant to this section requiring the owner or operator of the facility to take corrective action. Corrective action may include suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other action, as appropriate.

(b) The Associate Administrator, OPS may waive the requirement for notice and hearing under paragraph (a) of this section before issuing an order pursuant to this section when the Associate Administrator, OPS determines that the failure to do so would result in