



U.S. Department
of Transportation

Pipeline and Hazardous
Materials Safety
Administration

1200 New Jersey Avenue, SE
Washington, D.C. 20590

DEC 31 2012

Mr. Stephen Beasley
President
ANR Pipeline Company
717 Texas Street
Houston, TX 77002

Re: CPF No. 3-2011-1010

Dear Mr. Beasley:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$52,800. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon receipt of payment. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided 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. David Barrett, Director, Central Region, OPS
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS
Mr. Vern Meier, Vice President, Field Operations, TransCanada Corporation, 450-1
Street, SW, Calgary, Alberta, Canada, T2P 5H1
Mr. Ken Crawl, Manager, U.S. Pipeline Compliance, TransCanada Corporation, 450-1
Street, SW, Calgary, Alberta, Canada, T2P 5H1
Mr. Daniel Cerkoney, U.S. Compliance, ANR Pipeline Company, 717 Texas Street,
Houston, TX, 77002

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

In the Matter of

ANR Pipeline Company,

Respondent.

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CPF No. 3-2011-1010

FINAL ORDER

On July 26-30, August 9-13, and September 20-23, 2010, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of ANR Pipeline Company (ANR or Respondent), a subsidiary of TransCanada Corporation, at its gas integrity management facility in Calgary, Alberta, Canada. ANR delivers natural gas primarily to customers in the Midwest through 10,600 miles of pipeline.

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated July 22, 2011, a Notice of Probable Violation and Proposed Civil Penalty (Notice), which also included a warning pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that ANR had violated of 49 C.F.R. § 192.477 and proposed assessing a civil penalty of \$52,800 for the alleged violation. The warning items required no further action, but warned the operator to correct the probable violations.

ANR responded to the Notice by letter dated August 24, 2011 (Response), requesting an informal conference to respond to the allegations. ANR and OPS personnel met in Kansas City on January 31, 2012, to allow ANR to provide more information about its position. Following the informal conference, ANR provided a letter dated February 14, 2012 (Closing), detailing its position. The company contested the allegation and offered additional information in response to the Notice. Respondent did not request a hearing and therefore has waived its right to one.

FINDING OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 192, as follows:

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.477, which states:

§ 192.477 Internal corrosion control: Monitoring.

If corrosive gas is being transported, coupons or other suitable means must be used to determine the effectiveness of the steps taken to minimize internal corrosion. Each coupon or other means of monitoring internal corrosion must be checked two times each calendar year, but with intervals not exceeding 7 ½ months.

The Notice alleged that Respondent violated 49 C.F.R. § 192.477 by failing to check each means of monitoring internal corrosion twice each calendar year, but with intervals not exceeding 7 ½ months. Specifically, the Notice alleged that ANR did not check the internal corrosion probe at the Reed City compressor station at the required intervals between October 2008 and November 2010.

According to the Notice, an 8-inch diameter pipe in the compressor station failed on February 16, 2008. ANR's metallurgical analysis of the leak site determined that the failure was due to internal corrosion, likely due to the collection of liquids in a low spot of the pipeline.¹ ANR installed an internal corrosion probe at the failure site after the pipe was replaced on October 7, 2008. The probe stopped functioning after 18 days.² The Notice alleged that ANR did not check, repair or replace the probe or use any other means of checking for internal corrosion at this location until November 2010, when a corrosion coupon was installed.

In its Closing, ANR argued that this pipeline was not subject to the requirements of § 192.477 because "there was no determination that corrosive gas was being transported."³ ANR stated that the corrosion probe was being used to monitor for the possibility of internal corrosion, and was not installed as a result of finding a corrosive gas stream. ANR went on to provide what it described as a "Plausible Explanation for an Internal Corrosion Leak in a 'Non-Corrosive' Gas Stream," and provided data which ANR claimed was indicative of "a very low corrosion rate" and "low-to-moderate corrosion."

ANR's procedures used NACE Standard RP0775-2005⁴ to determine whether mitigative measures were required when corrosive gas was found, and stated that "[g]as is considered corrosive if the average corrosion or maximum pitting rates are classified as high in accordance with Table 2 of the standard."⁵ However, § 192.477 does not provide a minimum level of gas corrosivity which must be found in order for the requirement to apply. It states that a means of monitoring internal corrosion must be used if corrosive gas is being transported. It is irrelevant that the NACE standard did not classify the gas corrosivity in ANR's pipeline as "high."

¹ Pipeline Safety Violation Report (Violation Report), (July 22, 2011) (on file with PHMSA), at Exhibit E.

² Violation Report at Exhibit C; Closing at 7.

³ Closing at 6.

⁴ National Association of Corrosion Engineers, "Preparation, Installation, Analysis, and Interpretation of Corrosion Coupons in Oilfield Operations," April 7, 2005.

⁵ *Id.*

ANR claimed that the gas was not corrosive, and at the same time acknowledged that the pipeline was experiencing a low or moderate rate of corrosion. In fact, the internal corrosion probe which collected 18 days of data only confirmed that the gas was corrosive.⁶ ANR installed an internal corrosion probe to monitor for corrosion, and then failed to either check it or to replace it once it was no longer providing data. Accordingly, after considering all of the evidence and the legal issues presented, I find that Respondent violated 49 C.F.R. § 192.477 by failing to check each means of monitoring internal corrosion twice each calendar year, but with intervals not exceeding 7 ½ months.

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

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$100,000 per violation for each day of the violation, up to a maximum of \$1,000,000 for any related series of violations. In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; the Respondent's ability to pay the penalty and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$52,800 for the violation cited above.

Item 2: The Notice proposed a civil penalty of \$52,800 for Respondent's violation of 49 C.F.R. § 192.477, for failing to check each means of monitoring internal corrosion twice each calendar year, but with intervals not exceeding 7 ½ months. I found that ANR was transporting corrosive gas in this pipeline, and that it failed to check its internal corrosion probe from October 2008 to November 2010. ANR provided no defenses to the proposed penalty or arguments for mitigation. Internal corrosion can cause serious damage to a pipeline's integrity and can cause pipeline failures if not carefully monitored and mitigated. ANR experienced a pipeline failure due to internal corrosion, installed a probe to monitor for internal corrosion, and then failed to check it at the required intervals. The nature, gravity and Respondent's culpability for the violation warrant the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$52,800 for violation of 49 C.F.R. § 192.477.

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total civil penalty of **\$52,800**.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to be made by wire transfer through the Federal

⁶ Violation Report at Exhibit C; Closing at 8.

Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-341), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 269039, Oklahoma City, Oklahoma 73125. The Financial Operations Division telephone number is (405) 954-8893.

Failure to pay the \$52,800 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a district court of the United States.

WARNING ITEMS

With respect to Items 1 and 3, the Notice alleged probable violations of Part 192 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

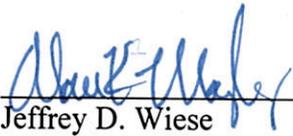
49 C.F.R. § 192.605 (**Item 1**) — Respondent's alleged failure to follow its written procedures for grading the atmospheric corrosion condition of the above-ground piping at its Menominee meter station; and

49 C.F.R. § 192.709 (**Item 3**) — Respondent's alleged failure to maintain documentation of each patrol, survey, inspection, and test required by subparts L and M of Part 192 as required. Specifically, the Notice alleged that ANR did not have adequate inspection records for all emergency valves and emergency shut-down devices in the Cold Springs 1 storage field and Cold Springs compressor station.

If OPS finds a violation of any of these items, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.215, Respondent has the right to submit a Petition for Reconsideration of this Final Order. The petition must be sent to: Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. PHMSA will accept petitions received no later than 20 days after receipt of service of the Final Order by the Respondent, provided they contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.215. The filing of a petition automatically stays the payment of any civil penalty assessed but does not stay any other provisions of the Final Order, including any required corrective actions. If Respondent submits payment of the civil penalty, the Final Order becomes the final administrative decision and the right to petition for reconsideration is waived.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

for: 

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

DEC 31 2012

Date Issued