



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety Administration**

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

SEP 20 2006

W. Lee
President
Hawaii Electric Light Company, Inc.
PO Box 1027
54 Halekauila Street
Hilo, Hawaii 96721-1027

Re: CPF No. 5-2004-5024

Dear W. Lee:

Enclosed is the Final Order issued by the Acting Associate Administrator for Pipeline Safety in the above-referenced case. It makes a finding of violation and finds that you have completed the actions specified in the Notice required to comply with the pipeline safety regulations. The Final Order also finds that you have addressed the inadequacies in your procedures that were cited in the Notice of Amendment. This case is now closed. Your receipt of the Final Order constitutes service under 49 C.F.R. § 190.5.

Sincerely,

James Reynolds
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

cc: W. Lee, President, Hawaii Electric Light Company, Inc.
S. Oppenheimer, HECO Legal Dept.
Chris Hoidal, P.E., Director, Western Region, PHMSA

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

**DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, DC 20590**

_____)
In the Matter of)

Hawaii Electric Light Company, Inc.)

Respondent)
_____)

CPF No. 5-2004-5024

FINAL ORDER

On March 22 and 23, 2004, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration's (PHMSA's)¹ Office of Pipeline Safety conducted an on-site pipeline safety inspection of Respondent's Integrity Management Program (IMP) in Hilo, Hawaii. As a result of the inspection, the Director, Western Region, PHMSA issued to Respondent, by letter dated October 8, 2004, a Notice of Probable Violation, Proposed Compliance Order, and Notice of Amendment (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had violated 49 C.F.R. Part 195 and proposed ordering Respondent to take certain measures to correct the alleged violation. The Notice also proposed, in accordance with 49 C.F.R. § 190.237, that Respondent amend its procedures/plans. The Notice also warned Respondent to take appropriate corrective action.

Respondent responded to the Notice by letter dated March 6, 2005 (Response).² Respondent did not appear to contest the allegation of violation but provided information concerning the corrective actions it has taken, including copies of its revised procedures. Respondent did not request a hearing, and therefore has waived its right to one.

¹ Effective February 20, 2005, the Pipeline and Hazardous Materials Safety Administration (PHMSA) succeeded Research and Special Programs Administration as the agency responsible for regulating safety in pipeline transportation and hazardous materials transportation. See, section 108 of the Norman Y. Mineta Research and Special Programs Improvement Act (Public Law 108-426, 118 Stat. 2423-2429 (November 30, 2004)). See also, 70 Fed. Reg. 8299 (February 18, 2005) re delegating the pipeline safety authorities and functions to the PHMSA Administrator.

² We note that the Response contains typos in reference to the Notice, e.g., second Notice Item 3d should be Notice Item 3g, second Notice Item 6b should be Notice Item 6c, etc. Since descriptions accompanied these references, we assume that Respondent overlooked correcting the typos when it prepared its Response.

FINDING OF VIOLATION

In its Response, Respondent did not state that it contested the alleged violation in the Notice. Accordingly, I find that Respondent violated 49 C.F.R. § 195.452(i)(1), as more fully described in Notice Item 5c, by failing to have in place a process to evaluate the need for Emergency Flow Restricting Devices. This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

COMPLIANCE ORDER

The Notice proposed a Compliance Order with respect to the violation in Notice Item 5c. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under Chapter 601. The Director, Western Region, PHMSA has indicated that Respondent adequately addressed Notice Item 5c in its Response. Accordingly, since the Response is acceptable with respect to this violation, the compliance terms are not included in this Order.

AMENDMENT OF PROCEDURES

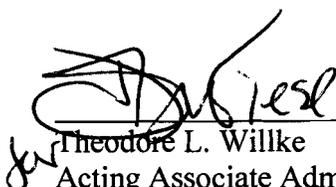
The Notice alleged inadequacies in Respondent's procedures and proposed to require amendment of Respondent's procedures to comply with the requirements of 49 C.F.R. § § 195.452 (b)(3), 195.452 (e)(1), 195.452(f)(1) and (4), 195.452 (i)(1), 195.452 (j)(1).

In its Response, Respondent submitted copies of its amended procedures, which the Director, Western Region, PHMSA reviewed. Accordingly, based on the results of this review, I find that Respondent's original procedures as described in the Notice were inadequate to ensure safe operation of its pipeline system, but that Respondent has corrected the identified inadequacies. No need exists to issue an Order Directing Amendment.

WARNING ITEM

The Notice did not propose a civil penalty or corrective action for Item 5a in the Notice but warned Respondent that it should take appropriate corrective action to correct the items. Respondent presented information in its Response showing that it has taken action towards addressing the cited item. Respondent is again warned that if PHMSA finds a violation for this item in a subsequent inspection, enforcement action will be taken.

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



Theodore L. Willke
Acting Associate Administrator
for Pipeline Safety

SEP 20 2006

Date Issued