

JUN 02 2009

Mr. Bruce Nave
President
Western Industrial Resources Corporation
3640 S. Cactus Road
Apache Junction, AZ 85219

Re: CPF No. 5-2005-1009

Dear Mr. Nave:

Enclosed is the Final Order issued by the Pipeline and Hazardous Materials Safety Administration in the above-referenced case. It makes findings of violation and finds that Western Industrial has completed the actions specified in the Notice that were required to bring the company into compliance with the pipeline safety regulations. The Final Order also finds that Western Industrial has addressed the inadequacies in its procedures that were cited in the Notice of Amendment. Therefore, this case is now closed. Your receipt of the Final Order constitutes service 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. Grady Partin
Ex El Pipeline Services, LLC
25067 S. 190th Street
Queen Creek, AZ 85242-5668

Chris Hoidal, Director, Western Region, OPS

CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7005 1160 0001 0047 7179]

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

_____)	
In the Matter of)	
)	
Western Industrial Resources)	CPF No. 5-2005-1009
Corporation,)	
)	
Respondent.)	
_____)	

FINAL ORDER

On October 3, 2005, 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 Western Industrial Resources Corporation (Western Industrial or Respondent) at its Blythe, California, facility. At the time of the inspection, Western Industrial owned and operated a 12-mile interstate natural gas pipeline transporting gas from the California-Arizona border to a power plant in Blythe, California.¹

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Western Industrial, by letter dated November 2, 2005, 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 Western Industrial had committed various violations of 49 C.F.R. Part 192 and ordering the company to take certain corrective measures. The Notice also proposed, in accordance with 49 C.F.R. § 190.237, that Western Industrial be required to amend its written procedures for operations and maintenance activities and for emergency response.

Western Industrial responded to the Notice by letters dated November 22, 2005 and January 18, 2006 (collectively, Response). The company did not contest the allegations of violation but described certain corrective actions it planned to implement. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

¹ On or around April 1, 2008, Western Industrial transferred ownership and operation of the Blythe pipeline to Ex El Pipeline Services, LLC (Ex El Pipeline).

Item 1: The Notice alleged that Western Industrial violated 49 C.F.R. § 192.605(b)(8), which states:

§ 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

(b) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following, if applicable, to provide safety during maintenance and operations. . .

(8) Periodically reviewing the work done by operator personnel to determine the effectiveness, and adequacy of the procedures used in normal operation and maintenance and modifying the procedure when deficiencies are found.

The Notice alleged that Western Industrial violated § 192.605(b)(8) by failing to prepare and follow written procedures for periodically reviewing the work performed by Western Industrial personnel in order to determine the effectiveness and adequacy of the company's Operations and Maintenance (O&M) manual. Specifically, the Notice alleged that Respondent lacked procedures for such periodic reviews. In its Response, Western Industrial did not contest this allegation and provided copies of its revised procedures. Accordingly, upon consideration of all of the evidence, I find that Western Industrial violated 49 C.F.R. § 192.605(b)(8) by failing to prepare and follow written procedures for periodically reviewing the work conducted by its personnel in order to determine the effectiveness and adequacy of the company's O&M procedures.

Item 2: The Notice alleged that Western Industrial violated 49 C.F.R. § 192.615, which states:

§ 192.615 Emergency plans.

(a) Each operator shall establish written procedures to minimize the hazard resulting from a gas pipeline emergency. At a minimum, the procedures must provide for the following: . . .

(b) Each operator shall . . .

(2) Train the appropriate operating personnel to assure that they are knowledgeable of the emergency procedures and verify that the training is effective....

The Notice alleged that Western Industrial violated § 192.615(b)(2) by failing to include emergency response training procedures in its various written manuals (i.e., Operations & Maintenance, Operator Qualification, or Emergencies). Western Industrial did not contest this

allegation and, in its Response, provided revised manuals that included procedures for the training, testing, and qualification of personnel for emergency response. Accordingly, upon consideration of all of the evidence, I find that Western Industrial violated 49 C.F.R. § 192.615(b)(2) by failing to include emergency response training procedures in its manuals of written procedures.

Item 3: The Notice alleged that Western Industrial violated 49 C.F.R. § 192.225(a), which states:

§ 192.225 Welding Procedures.

(a) Welding must be performed by a qualified welder in accordance with welding procedures qualified under section 5 of API² 1104 (incorporated by reference, *see* § 192.7) or section IX of the ASME³ Boiler and Pressure Vessel Code “Welding and Brazing Qualifications” (incorporated by reference, *see* § 192.7) to produce welds meeting the requirements of this subpart. The quality of the test welds used to qualify welding procedures shall be determined by destructive testing in accordance with the applicable welding standard(s)

The Notice alleged that Western Industrial violated § 192.225(a) by failing to specify in its manual of written procedures which section and edition of API 1104 it used to qualify its welding procedures. Western Industrial did not contest this allegation and stated in its Response that it had corrected this deficiency. Accordingly, upon consideration of all of the evidence, I find that Western Industrial violated 49 C.F.R. § 192.225(a) by failing to properly identify in its manual of written procedures the basis it used for qualifying its welding procedures.

Item 4: The Notice alleged that Western Industrial violated 49 C.F.R. § 192.227(a), which states:

§ 192.227 Qualification of welders.⁴

(a) Except as provided in paragraph (b) of this section, each welder must be qualified in accordance with section 6 of API 1104

² American Petroleum Institute.

³ American Society of Mechanical Engineers.

⁴ The text of § 192.227(a) shown here reflects the version of the regulation that was in effect at the time the Notice was issued. This section was subsequently amended, effective March 5, 2007, to change the reference from “Appendix A” to § 192.7. *See* Pipeline Safety: Periodic Updates to Pipeline Safety Regulations (2001), 69 Fed. Reg. 32895 (June 14, 2004) and Pipeline Safety: Update of Regulatory References to Technical Standards, 72 Fed. Reg. 4656 (February 1, 2007) (codified at 49 C.F.R. § 192.227(a)).

(incorporated by reference, *see* § 192.7) or section IX of the ASME Boiler and Pressure Vessel Code (incorporated by reference, *see* § 192.7). However, a welder qualified under an earlier edition than listed in appendix A of this part may weld but may not requalify under that earlier edition.

The Notice alleged that Respondent violated § 192.227(a) by failing to specify in its Operation and Maintenance manual (O&M Manual) which section and edition of API 1104 it used to qualify its welders. Western Industrial did not contest this allegation and submitted revised procedures. Accordingly, upon consideration of all of the evidence, I find that Western Industrial violated 49 C.F.R. § 192.227(a) by failing to state the basis of its welder qualifications in its O&M Manual.

Item 5: The Notice alleged that Western Industrial violated 49 C.F.R. § 192.231, which states:

§ 192.231 Protection from weather.

The welding operation must be protected from weather conditions that would impair the quality of the completed weld.

The Notice alleged that Respondent violated § 192.231 by failing to include procedures in its O&M Manual to protect welding operations from weather conditions that would impair the quality of completed welds. In its Response, Western Industrial did not contest this allegation and provided its revised procedures. Accordingly, upon consideration of all of the evidence, I find that Western Industrial violated 49 C.F.R. § 192.231 by failing to include procedures in its O&M Manual for the protection of welding operations from adverse weather conditions.

Item 6: The Notice alleged that Western Industrial violated 49 C.F.R. § 192.233, which states:

§ 192.233 Miter joints.⁵

(a)....

(b) A miter joint on steel pipe to be operated at a pressure that produces a hoop stress of less than 30 percent, but more than 10 percent of SMYS may not deflect the pipe more than 12 ½° and must be a distance equal to one pipe diameter or more away from any other miter joint, as measured from the crotch of each joint.

The Notice alleged that Respondent violated § 192.233(b) by failing to specify in its manual of written procedures whether or not miter joints were allowed on its pipeline and, if so, the maximum deflection that was allowed for such joints. Specifically, the Notice alleged that Western Industrial operated a pipeline at a hoop stress of less than 30% but greater than 10% of the line's specified minimum yield strength and that therefore the company needed written procedure dealing with miter joints. In its Response, Western Industrial did not contest this

⁵ The Notice erroneously labeled the text of § 192.233(b) as belonging to subsection (a). Western Industrial did not contest the substance of the allegation, acknowledging that the error was harmless.

allegation and attached a copy of its revised procedures. Accordingly, upon consideration of all of the evidence, I find that Western Industrial violated 49 C.F.R. § 192.233(b) by failing to include in its manual of written procedures information regarding the use of miter joints on its pipeline.

Item 7: The Notice alleged that Western Industrial violated 49 C.F.R. § 192.471, which states:

§ 192.471 External corrosion control: Test leads.

(a) Each test lead wire must be connected to the pipeline so as to remain mechanically secure and electrically conductive.

(b) Each test lead wire must be attached to the pipeline so as to minimize stress concentration on the pipe.

(c) Each bared test lead wire and bared metallic area at point of connection to the pipeline must be coated with an electrical insulating material compatible with the pipe coating and the insulation on the wire.

The Notice alleged that Respondent violated § 192.471 by failing to include provisions in its manual of written procedures for the connection, installation, or coating of test leads. Western Industrial did not contest this allegation and revised its procedures. Accordingly, upon consideration of all of the evidence, I find that Western Industrial violated § 192.471 by failing to prepare and follow written procedures regarding the connection, installation, or coating of test leads on its pipeline.

Item 8: The Notice alleged that Western Industrial violated 49 C.F.R. § 192.473, which states:

§ 192.473 External corrosion control: Interference currents.

(a) Each operator whose pipeline system is subjected to stray currents shall have in effect a continuing program to minimize the detrimental effects of such currents.

(b) Each impressed current type cathodic protection system or galvanic anode system must be designed and installed so as to minimize any adverse effects on existing adjacent underground metallic structures.

The Notice alleged that Respondent violated § 192.473 by failing to include provisions in its manual of written procedures for minimizing the adverse effects that its cathodic protection system might have on existing adjacent underground metallic structures. Specifically, the Notice alleged that Western Industrial utilized a cathodic protection system with both impressed current and galvanic anodes but that the company lacked any procedures for protecting underground metallic structures from the pipeline's cathodic protection system. Western Industrial did not contest this allegation. Accordingly, upon consideration of all of the evidence, I find that Western Industrial violated 49 C.F.R. § 192.473 by failing to include procedures to minimize the effect its cathodic protection system could have on underground metallic structures.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Western Industrial or its successor-in-interest, Ex El Pipeline Services, LLC.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1, 2, 5, 6, 7, and 8 in the Notice. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601.

The Director indicates that Western Industrial has provided facility-specific procedures to adequately implement the requirements of §§ 192.605(b)(8) (Item 1), 192.615(b)(2) (Item 2), 192.231 (Item 5), 192.233(b) (Item 6), 192.471 (Item 7), and 192.473 (Item 8) in its O&M Manual. I find that these actions comply with the requirements of the Proposed Compliance Order and therefore do not need to be included in this Final Order.

AMENDMENT OF PROCEDURES

Items 3 and 4 of the Notice alleged certain inadequacies in Respondent's O&M Manual and proposed to require the amendment of Western Industrial's procedures to comply with the requirements of Part 192. In its Response, the company submitted copies of its amended procedures, which the Director has reviewed and approved. Accordingly, based on the results of this review, I find that Western Industrial's original procedures as described in the Notice were inadequate to ensure safe operation of its pipeline system, but that the company has corrected the identified inadequacies. Accordingly, it is unnecessary to issue an Order Directing Amendment.

The terms and conditions of this Final Order shall be effective upon receipt.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued