



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Ave., SE
Washington, DC 20590

JUN 18 2009

Mr. Troy E. Valenzuela
Vice President, Environmental Health and Safety
Rocky Mountain Pipeline System, LLC
1575 Highway 150 South, Suite E
Evanston, WY 82930

Re: CPF No. 5-2006-5031

Dear Mr. Valenzuela:

Enclosed is the Final Order issued in the above-referenced case. It makes findings of violation and finds that Rocky Mountain Pipeline System, LLC, has completed the actions specified in the Notice required to comply with the pipeline safety regulations. This case is now closed. Your receipt of this Final Order constitutes service of that document 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. Chris Hoidal, Director, Western Region, PHMSA

Mr. Michael L. Jones
Law Department
Plains Marketing, L.P.
333 Clay Street, Suite 1600
Houston, TX 77002

CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7005 1160 0001 0046 9679]

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

_____)	
In the Matter of)	
)	
Rocky Mountain Pipeline System, LLC,)	CPF No. 5-2006-5031
)	
Respondent.)	
_____)	

FINAL ORDER

On May 15–17, 2006, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of Rocky Mountain Pipeline System, LLC’s (Rocky Mountain Pipeline’s or Respondent’s) Thermopolis District pipelines in Montana and Wyoming. The Thermopolis District has 232 miles of DOT-regulated hazardous liquid pipelines. As a result of the inspection, the Director, Western Region, OPS (Director), issued to Rocky Mountain Pipeline, by letter dated July 14, 2006, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Rocky Mountain Pipeline had violated 49 C.F.R. §§ 195.436 and 195.573 and proposed ordering Rocky Mountain Pipeline to take certain measures to correct the alleged violations. The Notice also proposed finding that Respondent had committed a probable violation of 49 C.F.R. § 195.404(b)(2) and warned Respondent to take appropriate corrective action or be subject to future enforcement action.

Rocky Mountain Pipeline responded to the Notice by letters dated August 14, 2006, and July 3, 2007, and also on numerous occasions via electronic-mail (Responses). Respondent initially contested two of the items in the Notice and provided explanations and information concerning the corrective actions it was taking and planned to take in the future. The Response also initially requested a hearing but Respondent withdrew that request for a hearing in an e-mail dated June 6, 2007.

FINDINGS OF VIOLATION

In its Response, Rocky Mountain Pipeline contested the allegation in the Notice that it violated 49 C.F.R. Part 195 as follows:

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.436, which states:

§ 195.436 Security of facilities.

Each operator shall provide protection for each pumping station and breakout tank area and other exposed facility (such as scraper traps) from vandalism and unauthorized entry.

Item 2 in the Notice alleged that Respondent failed to provide protection from vandalism and unauthorized entry at several pumping stations and breakout tank areas. Specifically, it alleged that on the dates of inspection, Respondent did not have adequate security fencing or other security measures in place at its Elk Basin, Kirby, and Lost Cabin pumping stations and breakout tanks. The Elk Basin and Kirby pump stations and breakout tanks were enclosed by barbed-wire fencing. The Lost Cabin breakout tanks were also enclosed by barbed-wire fencing. A publicly available interpretation letter explains that PHMSA may not consider barbed-wire fencing adequate protection to deter vandalism or entry by unauthorized persons.¹ While barbed-wire fencing may be adequate to deter livestock or other animals from entering an exposed facility, it is not an adequate barrier to prevent unauthorized persons from entering. Further, not all valves at the stations listed in the notice were adequately secured to prevent vandalism.

In its initial Response, Respondent acknowledged that the Elk Basin and Kirby pumping stations and breakout tanks and the Lost Cabin breakout tanks were enclosed only by four-strand barbed-wire fencing with padlocked gates. Respondent explained that all of the stations listed were located in remote areas. Respondent also pointed out that all of the stations listed in the Notice are electronically monitored 24-hours per day at a control center in Long Beach, California and receive regular visits from Respondent's personnel.

Respondent's initial argument that barbed-wire fencing constituted security fencing sufficient to protect against unauthorized entry was not persuasive.² Further, the electronic monitoring systems referred to in the Response do not provide protection from unauthorized entry. In its supplemental response of July 3, 2007, and in an email dated November 7, 2007, respectively, Respondent provided additional information demonstrating that it had installed security fencing at all locations that previously had only wire fencing and also that all valves had been chained and padlocked at each station cited in the Notice.

After considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.436 by not having adequate protection in place to safeguard the pumping stations and breakout tanks named in the Notice from vandalism or unauthorized entry.

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

¹ See, PHMSA Interpretation Letter PI-80-012 (August 13, 1980), available at <http://phmsa.dot.gov/pipeline/regs/interps>.

² *Id.*

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.573(e), which states:

§ 195.573 What must I do to monitor external corrosion.

(a) . . .

(e) Corrective action. You must correct any identified deficiency in corrosion control as required by § 195.401(b). However, if the deficiency involves a pipeline in an integrity management program under § 195.452, you must correct the deficiency as required by § 195.452(h).

Item 3 in the Notice alleged that Respondent violated § 195.573(e) by not taking appropriate actions to correct identified deficiencies in corrosion control as required. Specifically, the Notice alleged Rocky Mountain Pipeline failed to take corrective actions to resolve cathodic protection (CP) deficiencies reflected in their monitoring records for both the Beartooth and Big Horn Pipelines in the years 2003 to 2005. In 2003, Beartooth Pipeline CP monitoring records showed four test stations had “instant off” levels of less than -850mV. Also, in 2003 there were approximately 25 test stations on the Big Horn Pipeline that had “instant off” levels of less negative than -850mV. CP test records from 2004 and 2005 indicate the “on” levels at these test stations on the Big Horn pipeline were less negative than in 2003. Additionally, Big Horn Pipeline records showed “on” readings at three locations which were more negative than the “instant off” readings, which indicated possible interference problems with the pipeline. At the time of inspection, Respondent had not taken corrective actions as required by 49 C.F.R. §195.573(e) to correct these identified deficiencies in corrosion control.

Respondent did not contest the allegation of violation. Accordingly, I find that Respondent violated 49 C.F.R. §195.573(e) by failing to take corrective actions to remedy identified deficiencies in corrosion control.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

COMPLIANCE ORDER

The Notice proposed a Compliance Order with respect to Items 2 and 3 in the Notice for violations of 49 C.F.R. § 195.

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 has indicated that Respondent has satisfactorily completed the following actions specified in the Proposed Compliance Order:

1. 49 C.F.R. § 195.436 -- With regard to the violation as described in Item 2 of the Notice, on July 3, 2007, Respondent stated it had chained and padlocked

valves at each station cited in the Notice. Further, on November 7, 2007, Respondent electronically mailed photographs of all locations cited in the Notice showing that security fencing had been installed.

2. 49 C.F.R. § 195.573(e) -- With regard to the violation as described in Item 3 of the Notice, Respondent has provided information and records showing that it has taken corrective actions to address the deficiencies identified in that Item, and that CP levels at all stations on the Big Horn and Beartooth Pipelines are at or above monitoring criteria levels. Additionally, Respondent has provided information that it has taken actions to correct the pipeline interference problems referenced in the Notice.

Accordingly, since compliance has been achieved with respect to these violations, the compliance terms are not included in this Order.

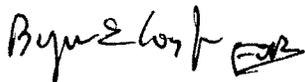
WARNING ITEM

With respect to Item 1 the Notice alleged probable violation of 49 C.F.R. § 195.404(b)(2), but did not propose a civil penalty or compliance order for this item. Therefore, this is considered to be a warning item. The warning was for:

49 C.F.R. § 195.404(b)(2) -- Respondent's alleged failure to maintain daily operating records that indicate emergency or abnormal pipeline operations to which the procedures under 49 C.F.R. § 195.402 apply.

Respondent presented information in its Response clarifying which records it keeps and describing the manner in which those records are maintained. Having considered such information, I find, pursuant to 49 C.F.R. § 190.205, that a probable violation of 49 C.F.R. § 195.404(b)(2) has occurred and Respondent is hereby advised to correct such condition. If OPS finds a violation for this item in a subsequent inspection, Respondent may be subject to future enforcement action.

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



Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

06-18-09

Date Issued