



U S Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Ave., S.E.
Washington, DC 20590

MAR 31 2008

Mr. Kevin Mugavero
Vice President of Operations
Bridgemark Corporation
17671 Irvine Blvd
Suite 217
Tustin, CA 92780-3129

Re: CPF No. 5-2005-0018

Dear Mr. Mugavero:

Enclosed is the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$5,000. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon payment. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

William H. Gals
for

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc. Chris Hoidal, P.E., Director Western Region, PHMSA

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)
)

Bridgemark Corporation,)

Respondent)
_____)

CPF No. 5-2005-0018

FINAL ORDER

On May 11, 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 inspection of Respondent's Operator Qualification of Pipeline Personnel (OQ) Program in Placentia, CA. As a result of the inspection, the Director, Western Region, PHMSA, issued to Respondent, by letter dated October 17, 2005, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had violated 49 C.F.R. § 192.809(a) and proposed assessing a civil penalty of \$5,000 for the alleged violation. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violation.

Respondent responded to the Notice by letter dated November 1, 2005 (Response). Respondent did not contest the allegations of violation but stated that it was no longer operating a Department of Transportation-regulated gas pipeline. It stated that it began using 100% of the natural gas generated from its own field on June 1, 2005 and, as a result, requested that the proposed civil penalty be eliminated. Respondent did not request a hearing and therefore has waived its right to one.

FINDING OF VIOLATION

In its Response, Respondent did not contest the allegation in the Notice that it violated 49 C.F.R. Part 192, as follows:

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

Item 1. Subpart N – Qualification of Pipeline Personnel
49 C.F.R. § 192.809 General.

(a) Operators must have a written qualification program by April 27, 2001. The program must be available for review by the Administrator or by a state agency participating under 49 U.S.C. Chapter 601 if the program is under the authority of that state agency.

The Notice alleged that Respondent did not have a written program for qualifying its pipeline personnel as of the date of the PHMSA inspection on May 11, 2004. Accordingly, I find that Respondent violated 49 C.F.R. § 192.809(a) by failing to have a written OQ program by April 27, 2001.

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.

49 U.S.C. § 60122 and 49 C.F.R. § 190.225 require that, in determining the amount of the civil penalty, I consider the following criteria: nature, circumstances, and gravity of the violation; degree of Respondent's culpability; history of Respondent's prior offenses; Respondent's ability to pay the penalty; good faith by Respondent in attempting to achieve compliance; the effect on Respondent's ability to continue in business; and such other matters as justice may require. The Notice proposed a total civil penalty of \$5,000 for violation of 49 C.F.R. § 192.809(a).

The Notice proposed that Respondent be assessed a civil penalty of \$5,000 for violating 49 C.F.R. § 192.809(a) by failing to have a written OQ program available for inspection on May 11, 2004. In its Response, Respondent stated that it was no longer operating the pipeline at issue, that it was a small business, and requested that the penalty be waived. Respondent, however, presented no other information that would justify why it should not be held liable for the alleged violation, that it was unable to pay the proposed penalty, or that would otherwise warrant a reduction in the penalty amount. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,000.

Payment of the civil penalty must be made within 20 days of service. Payment may be made by sending a certified check or money order (containing the CPF Number for this case) payable to "U.S. Department of Transportation" to the Federal Aviation Administration, Mike Monroney

Aeronautical Center, Financial Operations Division (AMZ-341), P.O. Box 25082, Oklahoma City, OK 73125.

Federal regulations (49 C.F.R. § 89.21(b)(3)) also permit this payment to be made by wire transfer, through the Federal 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 25082, Oklahoma City, OK 73125; (405) 954-8893.

Failure to pay the \$5,000 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 United States District Court.

COMPLIANCE ORDER

The Notice proposed a Compliance Order with respect to item 1 in the Notice for the violation of 49 C.F.R. § 192.809(a). Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or 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 is no longer operating a DOT-regulated facility as of April 11, 2006, and that the pipeline at issue has been disconnected and put in inactive mode.

Accordingly, since compliance is no longer required with respect to this item, the compliance terms are not included in this Order.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a Petition for Reconsideration of this Final Order. The petition must be received within 20 days of Respondent's receipt of this Final Order and must contain a brief statement of the issues. The filing of the petition automatically stays the payment of any civil penalty assessed. However if Respondent submits payment for 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 shall be effective upon receipt.

William H. Gale
for

MAR 31 2008

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued