



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

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

MAY 12 2008

Mr. Royce Ramsay
Vice President, Operations
Northern Natural Gas Company
1111 South 103rd Street
Omaha, NE 68124-1000

Re: CPF No. 3-2005-1013

Dear Mr. Ramsay:

Enclosed is the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$12,500. It further finds that you have completed the actions specified in the Notice required to comply with the pipeline safety regulations. When the civil penalty is paid, this enforcement action will be closed. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5. Thank you for your cooperation.

Sincerely,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Ivan Huntoon
Director, Central 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)
)
Northern Natural Gas Company,)
)
Respondent)
_____)

CPF No. 3-2005-1013

FINAL ORDER

Between June 21 and September 2, 2004, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), the Minnesota Office of Pipeline Safety (MNOPS), the Michigan Public Service Commission (MI-PSC), and the Iowa Utilities Board (IUB) conducted on-site pipeline safety inspections of Northern Natural Gas Company's (Respondent's) facilities and records in Wisconsin, Minnesota, Michigan, and Iowa. As a result of these inspections, the Director, Central Region, PHMSA, issued to Respondent, by letter dated June 16, 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 committed violations of 49 C.F.R. Part 192 and proposed assessing a civil penalty of \$15,000 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations. The Notice further contained a warning that Respondent had committed certain other probable violations of 49 C.F.R. Part 192 and advised Respondent to take appropriate corrective action or face potential enforcement action in the future.

Respondent responded to the Notice by letter dated July 18, 2005, as supplemented by letters dated December 7, 2005, March 23, 2006, and May 1, 2006 (collectively, Response). Respondent did not contest the allegations of violation but offered explanations and information in mitigation of the proposed civil penalty and described the corrective actions it had taken. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

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

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.465(d), which states:

§ 192.465 External corrosion control: Monitoring.

(a) Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of § 192.463. However, if tests at those intervals are impractical for separately protected short sections of mains or transmission lines, not in excess of 100 feet (30 meters), or separately protected service lines, these pipelines may be surveyed on a sampling basis. At least 10 percent of these protected structures, distributed over the entire system must be surveyed each calendar year, with a different 10 percent checked each subsequent year, so that the entire system is tested in each 10-year period.

(b)

(d) Each operator shall take prompt remedial action to correct any deficiencies indicated by the monitoring.

Specifically, the Notice alleged that Respondent failed to take prompt remedial action to correct pipe-to-soil readings below the -0.85v criteria at the Michigan Highway M-35 casing crossing during the 2002-2004 period.

In its Response, Respondent did not contest the allegation in the Notice. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.465(d), as more fully described in the Notice.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.481(c), which states:

§ 192.481 Atmospheric corrosion control: Monitoring.

(a)

(c) If atmospheric corrosion is found during an inspection, the operator must provide protection against the corrosion as required by §192.479.

Specifically, the Notice alleged that Respondent failed to provide protection against atmospheric corrosion at the Superior #1 TBS 782011, noting that corrosion was observed on several components at the location.

In its Response, Respondent did not contest the allegation in the Notice. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.481(c), as more fully described in the Notice.

Item 4a: The Notice alleged that Respondent violated 49 C.F.R. § 192.705(a), which states:

§ 192.705 Transmission lines: Patrolling.

(a) Each operator shall have a patrol program to observe surface conditions on and adjacent to the transmission line right-of-way for indications of leaks, construction activity, and other factors affecting safety and operation.

Specifically, the Notice alleged that Respondent failed to inspect the surface conditions in the specified areas of the North Branch, MN, unit.

Respondent's use of aerial patrolling was ineffective due to vegetation overgrowth. In its Response, Respondent did not dispute the allegation in the Notice that the specified areas were unobservable from the air due to overgrowth. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.705(a), as more fully described in the Notice.

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

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to a 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.

With respect to Item 2, the Notice proposed that a civil penalty of \$5,000 be assessed against Respondent for violating 49 C.F.R. § 192.481(c) for its failure to provide protection against atmospheric corrosion at the Superior #1 TBS 782011. Monitoring for and protecting against atmospheric corrosion is an important part of properly maintaining a pipeline system and ensuring safety. In its Response, Respondent acknowledged the presence of atmospheric corrosion at the specified location and provided information concerning its process for evaluating corrosion features. Specifically, Respondent provided evidence that the corrosion concern at the Superior #1 TBS was already scheduled for remediation prior to the on-site inspection by PHMSA. Respondent further demonstrated that the corrosion mitigation was completed in the fall of 2004 as part of its scheduled riser recoat project. Based upon Respondent's good faith efforts to achieve compliance prior to the inspection, I find that a 50 percent reduction in the civil penalty amount proposed in the Notice for this violation is warranted. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$2,500 for violating § 192.481(c).

With respect to Item 4(a), the Notice proposed that a civil penalty of \$10,000 be assessed against Respondent for violating 49 C.F.R. § 192.705(a) for its failure to inspect the surface conditions in the specified areas of the North Branch, MN unit. Thorough and consistent performance of pipeline right-of-way patrols is an important part of pipeline safety because these patrols can alert operators to indications of construction activity, leaks, and other factors potentially affecting safety and operation. Methods of patrolling include walking, driving, and aerial patrols but the method selected by the operator must be capable of inspecting the surface conditions.

In its Response, Respondent did not dispute that the specified areas were unobservable from the air due to overgrowth. Respondent also pointed out that pipe-to-soil surveys and class location surveys had been conducted on the ground during the relevant time period.

Respondent acknowledged that management of its 16,000 miles of right-of-way would benefit from a more systematic application of controls and committed to undertake budgeting and planning for system-wide clearing projects. Respondent further demonstrated that as of September 15, 2005, both areas specified in the Notice had been cleared. We acknowledge that following the inspection, Respondent initiated efforts to address the deficiencies that resulted in the violation. Respondent, however, has provided no information that would warrant a reduction in the penalty amount proposed in the Notice for this violation. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$10,000 for violating § 192.705(a).

For the reasons discussed above, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$12,500. Respondent has the ability to pay this penalty without adversely affecting its ability to continue in business.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require this payment 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 \$12,500 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

With respect to Item 1, the Notice proposed a compliance order for Respondent's failure to take prompt remedial action to correct pipe-to-soil readings below the -0.85v criteria at the Michigan Highway M-35 casing crossing in accordance with § 192.465(d). 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, Central Region, PHMSA has indicated that Respondent provided information in its Response demonstrating that it had removed the existing casing and replaced the crossing at Michigan Highway M-35 on February 4, 2006. Accordingly, since compliance has been achieved with respect to this violation, it is unnecessary to include compliance terms in this Order.

WARNING ITEMS

With respect to Items 3, 4b, 5a, and 5b, 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(a) (Notice Item 3) — Respondent's alleged failure to follow its manual of written operating and maintenance procedures. Respondent failed to follow its own procedure for locking a relief valve at the Hawthorne #1 town border station;

49 C.F.R. § 192.705(b) (Notice Item 4b) — Respondent's alleged failure to conduct transmission line patrols within the applicable 4 ½ month maximum interval for a Class 3 location. Respondent failed to demonstrate that it had inspected the Glacier Avenue road crossing between November 12, 2003 and May 5, 2004;

49 C.F.R. § 192.739(a) (Notice Item 5a) — Respondent's alleged failure to ensure that pressure relief devices were set to relieve at the correct pressure. Respondent failed to properly include the vendor's "build-up" values in establishing the set point for relief valves at several town border stations; and

49 C.F.R. § 192.201(a) (Notice Item 5b) — Respondent's alleged failure to ensure that a pressure relief device had enough capacity to ensure that operating pressure could not exceed the maximum allowable operating pressure (MAOP) plus 10 percent or the pressure that produces a hoop stress of 75 percent of SMYS, whichever is lower. Respondent failed to update the capacity review sheet for the relief at the L'Anse town border station after the MAOP was increased in 2003 from 60 to 120 psig.

Respondent presented information in its Response showing that it had taken certain actions to address the cited warning items. Having considered such information, I find, pursuant to 49 C.F.R. § 190.205, that probable violations of 49 C.F.R. §§ 192.605(a), 192.705(b), 192.739(a), and 192.201(a) have occurred and Respondent is hereby advised to correct such conditions. In the event that PHMSA finds a violation for any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a petition for reconsideration of this Final Order. Should Respondent elect to do so, the petition must be received within 20 days of Respondent's receipt of this Final Order and must contain a brief statement of the issue(s). The filing of a 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. Giese
for

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

MAY 12 2008

Date Issued