



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

1200 New Jersey Ave S E  
Washington DC 20590

MAY 23 2008

**VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Mr. Rick A. Olson  
Vice President of Operations  
Magellan Pipeline Company, L.P.  
One Williams Center  
Tulsa, OK 74172-0140

Re: CPF No. 4-2006-5032

Dear Mr Olson:

Enclosed is the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$10,000. 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,

Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

Enclosure

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

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**In the Matter of** )

**Magellan Pipeline Company,** )

**Respondent.** )  
\_\_\_\_\_ )

**CPF No. 4-2006-5032**

**FINAL ORDER**

On November 14–18, 28–30, and December 1, 2005, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety (OPS) conducted an on-site pipeline safety inspection of Longhorn Pipeline, which is operated by Magellan Pipeline Company (Magellan or Respondent) in Texas. Respondent's pipeline system operates in 13 Midwestern states and transports refined petroleum products, liquefied petroleum gases, and highly volatile liquids. As a result of the inspection, the Director, Southwest Region, OPS, issued to Respondent by letter dated August 17, 2006, a Notice of Probable Violation and Proposed Civil Penalty (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 195 and proposed assessing a civil penalty of \$10,000 for the alleged violations. In accordance with 49 C.F.R. § 190.205, the Notice also proposed finding that Respondent had committed another probable violation of 49 C.F.R. Part 195 and warned Respondent to take appropriate corrective action to address the item or be subject to future enforcement action.

Respondent responded to the Notice by letter dated September 21, 2006 (Response). Respondent did not contest the allegations of violation but offered an explanation and requested that the proposed civil penalty be reduced to \$5,000. Respondent did not request a hearing and therefore has waived its right to one.

**FINDINGS OF VIOLATION**

In its Response, Respondent did not contest the allegations in the Notice that it violated 49 C.F.R. Part 195, as follows:

**Item 1A:** The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a), which states:

**§ 195.402 – Procedural manual for operations, maintenance, and emergencies.**

(a) *General.* Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities . . . .

The Notice alleged that Respondent did not follow its own written procedures for inspecting cathodic protection rectifiers. Respondent's procedures required that each rectifier be inspected at least 12 times each calendar year, with intervals not to exceed 45 days. Respondent's records indicated that several rectifiers were inspected during the 2005 calendar year at intervals that exceeded 45 days. Respondent did not contest this allegation of violation and explained that the issue resulted from an employee's deficient job performance. Accordingly, I find that Respondent violated 49 C.F.R. § 195.402(a) by failing to follow its manual of written procedures for regularly inspecting cathodic protection rectifiers.

**Item 1B:** The Notice also alleged that Respondent violated 49 C.F.R. § 195.402(a), as quoted above, by failing to follow its own written procedures for inspecting foreign crossings and interference currents. Respondent's procedures required that each interference or foreign bond whose failure would jeopardize structure protection be inspected at least 12 times each calendar year, with intervals not to exceed 45 days. Respondent's records indicated that several foreign bonds were inspected during the 2005 calendar year at intervals that exceeded 45 days. Respondent did not contest this allegation of violation and explained that the issue resulted from an employee's deficient job performance. Accordingly, I find that Respondent violated 49 C.F.R. § 195.402(a) by failing to follow its manual of written procedures for regularly inspecting foreign crossings and interference currents

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. The Notice proposed a total civil penalty of \$10,000 for the 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: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; the Respondent's ability to pay the penalty and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require.

In its Response, Magellan explained that the violations identified in the Notice resulted from the deficient job performance of a certain individual and that action had been taken to permanently address the issue. Respondent also reported that it had undertaken additional mitigation measures, such as transferring job duties to a NACE-certified corrosion technician.

Respondent indicated that it found no pipeline damage resulting from the conduct that led to the violations. Respondent also contended that the violations were “self-reported,” but there is no evidence in the record supporting such contention. Based upon the foregoing, Respondent requested that the civil penalty be reduced to \$5,000 for its good faith efforts to achieve compliance and because the violations did not result in any harm to the pipeline or the public.

Although the violations committed by Magellan may have been caused by a single employee, Respondent is nevertheless responsible for the conduct of its employees and is culpable for violations of the pipeline safety regulations resulting from employee misconduct. Respondent’s failure to perform cathodic protection inspections at the intervals specified by its procedures for safe operations had the potential to impact the safety of Respondent’s pipeline. Inadequate cathodic protection can allow corrosion to develop on pipelines, and is one of the major causes of pipeline failures presenting a threat to public safety and the environment.

Although Respondent may have determined that no injuries or damage resulted from these violations, I still find that the nature, circumstances, and gravity of the violations warrant the proposed civil penalty amount. While Respondent did undertake corrective action by making changes in company policies and personnel, such measures were taken to ensure compliance *after* the violations had been identified by OPS and therefore are not considered in determining whether or not Respondent had made a good faith effort to achieve compliance as of the time the violations occurred.

Accordingly, having reviewed the record and considered the assessment criteria, I hereby assess Respondent a total civil penalty of \$10,000.

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 \$10,000 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.

**WARNING ITEM**

With respect to **Item 2**, the Notice alleged a probable violation of 49 C.F.R. Part 195 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. § 195.420(c) – Respondent’s alleged failure to provide protection from vandalism for each valve. A large number of valves on Respondent’s pipeline were not protected from vandalism, even though they had been chained and locked to protect against unauthorized operation.

The Notice acknowledged, and Respondent confirmed in its Response, that the company was in the process of installing security fencing to protect valve sites from vandalism. Having considered such information, I find pursuant to 49 C.F.R. § 190.205, that a probable violation of 49 C.F.R. § 195.420(c) has occurred and Respondent is hereby advised to correct such conditions. In the event that OPS finds a violation for this item 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. 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 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. Gault*

*for*

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Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

MAY 23 2008

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Date Issued