

NOV 22 2011

Mr. J. L. Davis  
President and CEO  
West Texas Gas, Inc.  
211 North Colorado Street  
Midland, TX 79701

**Re: CPF No. 4-2011-1006**

Dear Mr. Davis:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$108,700. This letter acknowledges receipt of payment of the full penalty amount, by wire transfer, dated June 13, 2011. This enforcement action is now closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided 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. Alan Mayberry, Deputy Associate Administrator for Field Operations, Pipeline Safety  
Mr. Rod M. Seeley, Director, Southwest Region, PHMSA

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED [71791000164202897532]**

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

In the Matter of	)	
	)	
West Texas Gas, Inc.,	)	CPF No. 4-2011-1006
	)	
Respondent.	)	
	)	

**FINAL ORDER**

On September 13, 2006, pursuant to 49 U.S.C. § 60118(b), the Associate Administrator, Office of Pipeline Safety (OPS), Pipeline and Hazardous Materials Safety Administration (PHMSA), issued a Final Order to West Texas Gas, Inc. (WTG), finding that WTG committed violations of the pipeline safety regulations, including 49 C.F.R. §§ 192.553(b), 192.555(b)(1), and 192.603(b), for failing to follow uprating requirements to increase the Maximum Allowable Operating Pressure (MAOP) of WTG’s Dalhart District pipeline system, an interstate natural gas pipeline in Dalhart, Texas (Final Order).<sup>1</sup> WTG operates natural gas distribution systems, natural gas transmission lines, oil & gas production, gas gathering and processing, and refined products distribution facilities in Texas and Oklahoma.<sup>2</sup>

PHMSA assessed a civil penalty of \$60,000 in the Final Order and directed WTG to take specific actions to comply with the cited regulations. Specifically, the Final Order required WTG to determine the MAOP of the Dalhart District pipeline system in accordance with 49 C.F.R. § 192.619 and to submit the results and supporting documentation to the Director, Southwest Region, OPS (Director). WTG was also required to reduce the operating pressure of the line, if necessary, to ensure that the system operated within the MAOP established in accordance with 49 C.F.R. § 192.619 (Compliance Item #3).<sup>3</sup>

On June 22, 2010, OPS conducted a follow-up inspection to determine compliance with the Final Order. As a result of the inspection, the Director issued to Respondent, by letter dated May 24, 2011, a Notice of Probable Violation and Proposed Civil Penalty (Notice) alleging non-compliance with Item #3 of the Compliance Order issued in CPF No. 4-2004-1007. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that WTG had violated the Final Order and assessing a civil penalty of \$108,700 pursuant to 49 U.S.C. § 60122.<sup>4</sup>

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<sup>1</sup> See, *In the Matter of West Texas Gas, Inc.*, CPF No. 4-2004-1007 (September 13, 2006).

<sup>2</sup> See [http://www.westtexasgas.com/profile\\_history.htm](http://www.westtexasgas.com/profile_history.htm) (last accessed October 31, 2011).

<sup>3</sup> Final Order, at 8.

WTG responded to the Notice by letter dated June 13, 2011 (Response). WTG did not contest the probable violation and paid the proposed civil penalty of \$108,700, as provided in 49 C.F.R. § 190.227. Payment of the penalty serves to close the case with prejudice to Respondent.

### **FINDING OF VIOLATION**

In its Response, WTG did not contest the allegation in the Notice that it violated **Compliance Item 3** of the Final Order, which required Respondent to:

Determine the MAOP of the Dalhart District pipeline system in accordance with 49 C.F.R. § 192.619 and submit the results and supporting documentation to the Director, Southwest Region. If necessary, reduce operating pressure of the pipeline system to ensure that the pipeline system is operated within MAOP in accordance with 49 C.F.R. § 192.619. Complete this item within 30 days of receipt of this Order.

The Dalhart 22" mainline system had a documented MAOP of 150 psig that WTG established by pressure testing in accordance with §192.619(a)(2)(ii). WTG was required by Compliance Item #3 to maintain the pressure on the pipeline at or below 150 psig until WTG could establish or confirm a higher MAOP in accordance with applicable uprating regulations.

On May 1, 2007, PHMSA received a letter from WTG addressing the uprating of a portion of the Dalhart line and clarifying that the 20-mile Northern Segment of the Dalhart 22" mainline (Northern Segment), which was not included in this uprating process, would continue to operate at the lower pressure of 150 psig.<sup>5</sup>

On July 2, 2008, PHMSA received another letter from WTG stating that the 84 miles of the 22" mainline system was now configured in three segments and further confirming that the Northern Segment would remain in service at an MAOP of 150 psig.<sup>6</sup>

As mentioned above, in June 2010, OPS conducted a follow-up inspection to review pressure records dated between September 13, 2006 (date of the Final Order) and June 2010, for the Brewster and the Valley Farmer's Check Station. OPS discovered that WTG had exceeded the 150 psig MAOP for the Northern Segment for 159 days between October 13, 2006, and June 22, 2010, in direct violation of the Final Order. During the inspection, WTG personnel stated that the pressure had been increased on this portion of the line by manually adjusting regulator set-points to increase line flow during periods of high demand.<sup>7</sup>

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<sup>4</sup> 49 U.S.C. § 60122 authorizes PHMSA to issue a civil penalty for a violation of the statute, a regulation, or an order.

<sup>5</sup> OPS Pipeline Safety Violation Report (May 24, 2011), Exhibit B.

<sup>6</sup> Violation Report, Exhibit C.

<sup>7</sup> Violation Report, at 3.

The Final Order required WTG to maintain a pressure of 150 psig for the Northern Segment until it could establish a higher MAOP pursuant to the uprating regulations. By operating this section of the line above the MAOP of 150 psig, WTG violated the Final Order.

### **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. In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must 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.

**Compliance Item 3:** The Notice proposed a civil penalty of \$108,700 for failing to comply with the Final Order issued on September 13, 2006. WTG did not contest the amount of the civil penalty and paid the full amount on June 13, 2011.

The proposed civil penalty of \$108,700 is based on the civil penalty assessment factors listed in 49 C.F.R. § 190.225, including but not limited to, gravity, circumstances, culpability, duration of the violation, and prior compliance history. WTG's failure to comply with the Final Order posed a significant threat to pipeline integrity by raising the operating pressure of the line above the required MAOP. In terms of culpability, the evidence in the record provides no plausible explanation as to why WTG disregarded the requirements of the Final Order. For this reason, I find Respondent fully culpable for its repeat violations, which extended over a period of 159 days. Finally, PHMSA considered WTG's prior enforcement history in calculating the proposed civil penalty. Having reviewed the penalty factors and the facts of this case, I find that the proposed civil penalty of \$108,700 is justified. Accordingly, I assess Respondent a civil penalty of \$108,700, which has already been remitted.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

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Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

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Date Issued