

Mr. Campbell Evans
President
BT Operating Company
P.O. Box 56532
Houston, Texas 77256

Re: CPF No. 45903

Dear Mr. Evans:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$4,000. The penalty payment terms are set forth in the Final Order. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Sincerely,

Gwendolyn M. Hill
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DEPARTMENT ON TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590

In the Matter of)
)
BT Operating Company,) CPF No. 45903
)
Respondent.)
_____)

FINAL ORDER

On August 30-31, 1994, pursuant to 49 U.S.C. § 60117, a representative of the Office of Pipeline Safety (OPS) conducted an on-site pipeline safety inspection of Respondent's facilities and records in Houston, Texas. As a result of the inspection, the Director, Southwest Region, OPS, issued to Respondent, by letter dated June 28, 1995, 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 violated 49 C.F.R. §§ 191.17, 192.243, 195.266, and 199.7 and proposed assessing a civil penalties of \$2,000, \$1,000, \$1,000, and \$5,000 respectively for the alleged violations.

Respondent responded to the Notice by letter dated July 19, 1995 and faxed additional information on July 24, 1995 (Response). Respondent did not contest the allegations of violation but offered an explanation and provided information in mitigation of the proposed civil penalty. Respondent did not request a hearing and therefore, has waived its right to one.

FINDINGS OF VIOLATION

Respondent did not contest the alleged violations in the Notice. Accordingly, I find that Respondent violated the following sections of 49 C.F.R. Parts 191, 192, 195, and 199 as more fully described in the Notice:

49 C.F.R. § 191.17 -- failing to submit an annual report for each year not later than March 15, for the preceding calendar year;

49 C.F.R. § 192.243(f) -- failing to maintain a complete record for the life of each pipeline facility, showing the total number of girth welds, the number non-destructively tested, including the number rejected and the disposition of each rejected weld, by milepost, engineering station, or by geographic feature;

49 C.F.R. § 195.266(a) -- failing to maintain a complete record for the life of each pipeline facility, showing the total number of girth welds, the number non-destructively tested, including the number rejected and the disposition of each rejected weld; and

49 C.F.R. § 199.7(a) -- failing to maintain and follow a written anti-drug plan which contains the methods and procedures for compliance with all the requirements set out in 49 C.F.R. Parts 199 and 40.

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 \$25,000 per violation for each day of the violation up to a maximum of \$500,000 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 civil penalty of \$9,000. With respect to item 1 in the Notice (failure to submit annual reports for 1993 and 1994), Respondent presented documentation that it had submitted the annual report for calendar year 1993 within the proper time limits. Accordingly, having reviewed the record and considered the assessment criteria, the civil penalty imposed for item one will be reduced from \$2,000 to \$1,000.

With respect to item 4 in the Notice, after a further review of the record and after taking into account the nature and circumstances of the violation, Respondent's good faith efforts and its history of no prior offenses, the civil penalty imposed for item four will be reduced from \$5,000 to \$1,000. The remaining civil penalties will remain the same as proposed in the Notice, resulting in a total assessment of \$4,000.

Payment of the civil penalty must be made within 20 days of service. Payment can 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-320), P.O. Box 25770, 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.** After completing the wire transfer, send a copy of the **electronic funds transfer receipt** to the **Office of the Chief Counsel** (DCC-1), Research and Special Programs Administration, Room 8405, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590-0001.

Questions concerning wire transfers should be directed to: **Valeria Dungee**, Federal Aviation Administration, Mike Monroney Aeronautical Center, Financial Operations Division (AMZ-320), P.O. Box 25770, Oklahoma City, OK 73125; **(405) 954-4719**.

Failure to pay the \$4,000 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 4 C.F.R. § 102.13 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 an United States District Court.

Under 49 C.F.R. § 190.215, Respondent has a right to 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. All other terms of the order, including any required corrective action, shall remain in full effect unless the Associate Administrator, upon request, grants a stay.

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

/s/ Richard B. Felder

Richard B. Felder
Associate Administrator for Pipeline Safety

Date issued: _____