

Mr. Mark A. Petersen
General Manager
Sinclair Pipeline Company
P.O. Box 3082
Salt Lake City, Utah 84130-0825

Re: CPF No. 55503

Dear Mr. Petersen:

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 \$3,125. The penalty payment terms are set forth in the Final Order. This enforcement action will close automatically upon payment of the civil penalty. 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

cc: Kevin Brown
Vice President, Operations

Edward A. Berkovich
Corporate Counsel

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

cc: DCC-20

PSanchez: cmt:x64400:5/5/98

c:cpf55503.wpd

DEPARTMENT OF TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, DC 20590

)	
In the Matter of)	
)	
Sinclair Pipeline Company,)	CPF No. 55503
)	
Respondent.)	
)	

FINAL ORDER

On April 11–13, 1995, 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 Medicine Bow Product System facilities and records in Sinclair, Wyoming. As a result of the inspection, the Director, Western Region, OPS, issued to Respondent, by letter dated June 13, 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. §§ 195.420 and 195.428, and proposed assessing a civil penalty of \$7,250 for the alleged violations.

Respondent responded to the Notice by letter dated June 22, 1995 (Response). Respondent offered information to explain the allegations violations, requested mitigation of the proposed civil penalty, and requested a hearing to provide further explanation. By mutual agreement of the parties, a hearing was held by telephone on January 21, 1997.

FINDINGS OF VIOLATION

The Notice alleged two violations. Both violations involve Respondent’s 203-mile, 6-inch hazardous liquid pipeline located between Sinclair, WY and Denver, CO. Item 1 in the Notice alleged a violation of 49 C.F.R. § 195.420(b), which requires an operator to inspect each mainline valve at least twice each calendar year at intervals not exceeding 7½ months. At the time of the inspection, records indicated that Respondent exceeded the 7½ month interval for 12 of its mainline valve inspections during 1993 and 1994. Eleven of the inspections occurred between 20 and 61 days late. The inspection on the final valve was performed 140 days late, thus constituting a missed, rather than late, inspection. In its Response and during the telephonic hearing, Respondent did not contest these allegations, other than to point out that its Denver Block Valve would not ordinarily be used unless an accident occurred. It was pointed out to Respondent

during the hearing that the Denver Block Valve is on Respondent's inspection list, and thus must be inspected.

Item 2 in the Notice alleged a violation of 49 C.F.R. § 195.428, which requires an operator to inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment at least once each calendar year at intervals not exceeding 15 months. At the time of the inspection, records indicated that Respondent exceeded the 15-month inspection interval for two of its pressure limiting devices in 1994. The two inspections occurred 17 days late. Respondent did not contest these allegations, other than to point out that the entire pipeline was out of operation for 5 of the 17 days that the inspection did not occur.

Based on the information contained in the record, I find that Respondent violated 49 C.F.R. §§ 195.420 and 195.428. These findings of violation will be considered as 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 U.S.C. § 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 assessing a civil penalty of \$7,250, including penalties of \$500 for each of the 11 late valve inspections, \$750 for one missed valve inspection, and \$500 for each of the two late pressure limiting device inspections. In proposing mitigation of the penalty, Respondent asserted that a change in personnel caused discontinuity in its normal inspection procedures. Some of Respondent's valves were inspected earlier than the regularly scheduled inspection dates in 1993 and, as a result, subsequent inspections exceeded the 7½ month interval. The late inspections on the pressure limiting devices were "inadvertently overlooked" by personnel, according to Respondent. (Response, p. 2).

Following issuance of the Notice, Respondent revised its procedures so that all valves are inspected four times per year and all pressure limiting devices two times per year. Respondent also asserted that the penalties being assessed are the first monetary penalties that it has received for this type of infraction. (Response, p. 2).

Based upon the above explanations provided by Respondent both in its Response and during the hearing, the civil penalty for the late valve inspections has been reduced by 50 percent and the

civil penalty for the late inspections of the overpressure safety devices has been eliminated. The penalty amount is reflected below.

<u>Item No.</u>	<u>Violation</u>	<u>Proposed Civil Penalty</u>	<u>Assessed Penalty</u>
1.	§ 195.420	\$ 6,250	\$3,125
2.	§ 195.428	\$ 1,000	eliminated

Accordingly, having reviewed the record and considered the assessment criteria, I assess a civil penalty of \$3,125. I find that Respondent has the ability to pay the proposed penalty and that imposition of the penalty will not affect its ability to remain in business.

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 civil penalty of \$3,125 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 U.S.C. § 190.215, Respondent has a right to petition for reconsideration of this Final Order. If a petition is filed, do not forward payment with the petition. The filing of the petition automatically stays the payment of any civil penalty assessed. If payment is forwarded, the case will automatically close, and the right to file a petition for reconsideration will be waived. 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 terms and conditions of this Final Order are effective upon receipt.

Richard B. Felder
Associate Administrator for Pipeline Safety

Date Issued: _____