U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

400 Seventh Street, S.W.
Washington, D.C. 20590

MAR 31 2005

Mr. Andrew K. Turner
Vice President
Mobil Pipe Line Company
P.O. Box 2220
Houston, Texas 77252-2220

Re: CPF No. 1-2001-5006

Dear Mr. Turner:

Enclosed is the Decision on the Petition for Reconsideration signed by the Associate Administrator in the above-referenced case. The Decision grants Respondent's petition by withdrawing one finding of violation together with the civil penalty and compliance term associated with that finding and adjusting the civil penalty assessed in the final order to $57,000. The civil penalty is payable immediately.

This Decision is effective upon receipt.

Sincerely,

James Reynolds
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, DC 20590

In the Matter of	)	
	)	
Mobil Pipe Line Company,	)	CPF No. 1-2001-5006
	)	
Respondent.	)	
	)	

DECISION ON PETITION FOR RECONSIDERATION

On August 24, 2004, the Associate Administrator for Pipeline Safety, Research and Special Programs Administration[1], issued a final order in this case finding Respondent in violation of the pipeline safety regulations, assessing a civil penalty in the amount of $92,000, and incorporating a compliance order that requires Respondent to take specific steps to come into compliance with the regulations. Respondent requested and obtained an extension of time for filing a petition of reconsideration as well as an extension of time for complying with one item of the compliance order. Payment of the penalty was stayed automatically. Respondent filed a petition for reconsideration dated October 15, 2004.

In its petition for reconsideration, Respondent seeks reconsideration of the finding of violation of 49 C.F.R. §195.402(c)(12) and the civil penalty ($35,000) and the compliance order terms associated with that finding; namely paragraph 5 of the order. Section 195.402(c)(12) requires Respondent to have procedures for maintaining liaison with local emergency response officials in order to facilitate response in an emergency. Communication is a key factor in this liaison. The final order cites two instances of gaps in communication procedures as supporting violation. First, Respondent had an out of date phone number for the Chicopee, Massachusetts, fire department in its Emergency Call List. Second, Respondent's phone number posted outside its Malvern, Pennsylvania, pump station was also out of date.

With respect to the out of date phone number for the Chicopee fire department, Respondent contends that the Emergency Call List was an internal supplemental phone directory and that its personnel use 911 in an emergency. Respondent also contends that an attendance roster for a public education meeting attended by the Chicopee fire chief and an emergency preplanning manual prepared for the Chicopee fire department shows that liaison is maintained with the fire department. Respondent

[1] Pursuant to the Mineta Research and Special Programs Reorganization Act, Pub. L. No. 108-426, enacted November 30, 2004, the pipeline safety activities of the Department were transferred to the newly created Pipeline and Hazardous Materials Safety Administration. The Act provides that the transfer does not affect the validity of orders or the nature of proceedings.

contends that a 1993 interpretive letter by OPS indicates that maintaining liaison requires only the face to face contact that occurred here. The final order noted that the existence of the attendance roster. Respondent is incorrect in its reading of the 1993 letter. That letter is more properly read to mean that face to face contact is always required for maintaining liaison rather than that it is the only thing required. The fact that Respondent had met with the fire chief is not, in and of itself, sufficient to conclude that it was adequately maintaining liaison. The burden, however, is not with Respondent to prove compliance, but with OPS to prove violation. The issue in this case is whether having a single incorrect phone number in an internal directory is sufficient evidence of lack of communication to support a finding that Respondent was not maintaining liaison with the fire chief. I agree with Respondent that, in a true emergency, Respondent's personnel would likely initiate contact through 911 rather than through an internal telephone listing.

Second, Respondent contends that the incorrect operator contact number on a public sign on a pump station in Pennsylvania does not show that Respondent was not maintaining liaison with local officials. Respondent contends that signage is required by another section of the regulations. Thus, according to Respondent, the signage is irrelevant to a citation of violation of section 195.402(c)(12). That is not the case. As already noted, communication is a key feature in liaison with local officials and the information on the signage is part of that communication. Review of the file indicates that OPS staff believed that the wrong number was indicative of a broader communication problem. Respondent notes that it has now surveyed the signage on pump stations and breakout tanks farms throughout the upper Northeast and that this single sign was the only one with an outdated number. I find that this effectively rebuts a concern about a broader problem.

Upon reconsideration, I conclude that there is insufficient evidence before me to conclude that Respondent failed to maintain liaison with local emergency officials. Accordingly, I withdraw the finding of violation of 49 C.F.R. §195.402(c)(12) made in the final order issued August 24, 2004 and the assessed civil penalty ($35,000) and the compliance order terms (paragraph 5 of the order) associated with that finding.

All other terms of that order remain in effect, including assessment of the civil penalty associated with other violations. That penalty, in the amount of $57,000, is payable immediately.

for

Stacey Gerard
Associate Administrator
for Pipeline Safety

MAR 31 2005

Date Issued