

SEPTEMBER 10, 2014

Mr. Robert G. Phillips
Chairman, President and Chief Executive Officer
Crestwood Midstream GP, LLC
Two Brush Creek Boulevard, Suite 200
Kansas City, MO 64112

Re: CPF No. 1-2014-1001

Dear Mr. Phillips:

Enclosed please find the Final Order issued in the above-referenced case. It withdraws one of the allegations of violation, makes one other finding of violation, assesses a reduced civil penalty of \$10,000, and specifies actions that need to be taken by your subsidiary, Arlington Storage Company, LLC, to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the compliance order completed, as determined by the Director, Eastern Region, this enforcement action will be 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. Byron E. Coy, P.E., Director, Eastern Region, OPS
Mr. Matthew Norton, Director of PSM and Pipeline Compliance, Crestwood Midstream
GP, 801 Cherry Street, Suite 3800 – Unit 20, Fort Worth, Texas 76135

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

In the Matter of)	
)	
Arlington Storage Company, LLC,)	CPF No. 1-2014-1001
a subsidiary of Crestwood Midstream GP, LLC,)	
)	
Respondent.)	
)	

FINAL ORDER

Between October 15 and November 7, 2012, pursuant to 49 U.S.C. § 60117, inspectors from the New York State Department of Public Service (NYSDPS), acting as agents for the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of Arlington Storage Company, LLC (ASC or Respondent), at the company's Seneca Lake storage facilities in Watkins Glen, New York. This facility is operated by ASC, a subsidiary of Crestwood Midstream GP, LLC, and includes an 18.6-mile, 16-inch diameter welded pipeline system and a cavern with a storage capacity of 2.1 billion cubic feet of active working gas.¹

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated January 2, 2014, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that ASC had committed two violations of 49 C.F.R. Part 192 and proposed assessing a civil penalty of \$20,000 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations.

ASC responded to the Notice by letter dated January 31, 2014 (Response). The company contested one allegation, offered additional information in response to the Notice, and requested that the proposed civil penalty be eliminated.

Respondent did not request a hearing and therefore has waived its right to one.

¹ <http://ceqpinvestor.crestwoodlp.com/phoenix.zhtml?c=132026&p=irol-newsArticle&ID=1585221&highlight=> (last accessed July 14, 2014); Pipeline Safety Violation Report (Violation Report), dated January 2, 2014 (on file with PHMSA), at 1.

FINDING OF VIOLATION

In its Response, ASC did not contest the allegation in the Notice that it violated 49 C.F.R. § 192.709, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.709, which states, in relevant part:

§ 192.709 Transmission lines: Record keeping.

Each operator shall maintain the following records for transmission lines for the periods specified:

(a) ...

(c) A record of each patrol, survey, inspection, and test required by subparts L and M of this part must be retained for at least 5 years or until the next patrol, survey, inspection, or test is completed, whichever is longer.

The Notice alleged that Respondent violated 49 C.F.R. § 192.709 by failing to maintain a record of each patrol, survey, inspection, and test required by Subparts L and M of 49 C.F.R. Part 192. Specifically, the Notice alleged that ASC could not produce any documents or capacity test reviews or calculations, as required by § 192.743(a), for any of the relief devices on the Seneca Storage and Seneca West Pipeline facilities.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.709 by failing to maintain a record of each patrol, survey, inspection, and test required by Subparts L and M of 49 C.F.R. Part 192.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.491(c), which states:

§ 192.491 Corrosion control records.

(a) ...

(c) Each operator shall maintain a record of each test, survey, or inspection required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist. These records must be retained for at least 5 years, except that records related to §§ 192.465(a) and 192.475(b) must be retained for as long as the pipeline remains in service.

The Notice alleged that Respondent violated 49 C.F.R. § 192.491(c) by failing to maintain a record of each test, survey, or inspection required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist. Specifically, the Notice alleged that ASC failed to document the internal corrosion

inspection required under 49 C.F.R. § 192.495(b) when the company removed a section of 16-inch pipe from the Seneca West Pipeline during tie-in of “Project 415: Interconnection with Millennium Pipeline” in 2012.

In its Response, ASC challenged the allegation that it failed to document the internal corrosion inspection and requested that the proposed civil penalty and compliance order requirement associated with this Item be eliminated. ASC contended that NYSDPS did not request a record of the internal corrosion inspection. Also, ASC argued that an internal corrosion inspection was indeed conducted at the time of the tie-in project and was recorded on an “Information Report” form dated April 17, 2012. ASC indicated that this “Information Report,” which was attached to the Response, had been available at the time of the PHMSA inspection.

The NYSDPS disputed ASC’s statement that NYDPS did not ask for the internal corrosion inspection records, stating that it did indeed request the records both during and after the inspection. Additionally, Section 3.2 of *Arlington Storage Procedure 907* states: “[W]henver any pipe is removed from a pipeline for any reason, inspect the internal surface for evidence of corrosion. If internal corrosion is found: Investigate the adjacent pipe to determine the extent of internal corrosion and document on O&M Form OM200-02 Pipeline Examination Report. . . .”²

There are several problems with the documentation provided by ASC in its Response. First, the “Information Report” is not the same record as the “Form OM200-2 Pipe Examination Report” required by *Arlington Storage Procedure 906* and does not reference said procedure. Second, the “Information Report” has “Form S-10 02-08-2002” at the bottom of the page and only references procedures numbered 301, 303, 304, and 508 at the top of the page but not procedure 906. Finally, the “Information Report” has no description indicating it was to be used for recording an internal corrosion inspection, but instead was used for recording external surface corrosion if a pipeline were exposed.

Nevertheless, after considering all of the evidence, I find that the information therein is sufficient to show that an internal corrosion inspection did indeed occur. The “Information Report” provided by ASC states expressly: “No corrosion detected internally!” and is dated and signed by the inspector. Under the circumstances, I am willing to accept this as proof that ASC did maintain an adequate record of an internal corrosion inspection for the section of pipe in question.

Based upon the foregoing, I withdraw Item 2.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any

² Violation Report, Exhibit A-01.

related series of violations.³ 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; 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. The Notice proposed a total civil penalty of \$20,000 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$10,000 for Respondent's violation of 49 C.F.R. § 192.709, for failing to maintain a record of each patrol, survey, inspection, and test required by subparts L and M of Part 192. ASC did not contest this allegation, but did request that the proposed civil penalty be reduced or waived. In its Response, ASC indicated that it completed a relief capacity analysis on all associated relief devices following the inspection.

Respondent stated that the post-inspection analysis indicated all pressure-relief devices had sufficient capacity; no device required resetting or physical change. Respondent believed that the proposed penalty should be reduced despite the company's failure to maintain records of a capacity test. The company argued that its ability to easily conduct a capacity test demonstrated the adequacy of both the original design and ASC's on-going annual device relief testing program. Respondent argued in its Response that the relief capacity analysis performed after the NYSDPS inspection warrants a penalty reduction. I disagree. The fact that Respondent reacted to the NYSDPS inspection by conducting an analysis does not warrant a penalty reduction, as it is Respondent's responsibility to ensure it has all the necessary records available at all times. Respondent must maintain all necessary records regardless of whether its relief valves, or other equipment, are adequate. The regulation specifically requires operators to maintain records for a certain amount of time. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$10,000 for violation of 49 C.F.R. § 192.709.

Item 2: The Notice proposed a civil penalty of \$10,000 for Respondent's violation of 49 C.F.R. § 192.491(c), for failing to maintain a record of each test, survey, or inspection required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist. Based on the discussion above, I withdraw the proposed penalty for violation of 49 C.F.R. § 192.491(c).

In summary, having reviewed the record and considered the assessment criteria for Item 1 cited above, I assess Respondent a reduced civil penalty of **\$10,000**.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such 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

³ The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Pub. L. No. 112-90, § 2(a)(1), 125 Stat. 1904, January 3, 2012, increased the civil penalty liability for violating a pipeline safety standard to \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.

directed to: Financial Operations Division (AMK-325), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 269039, Oklahoma City, Oklahoma 73125. The Financial Operations Division telephone number is (405) 954-8845.

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 district court of the United States.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 1 in the Notice for violation of 49 C.F.R. § 192.709. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 192.709 (**Item 1**), Respondent must perform a relief capacity analysis on all associated devices that do not have adequate records and make any changes, if necessary, to establish adequate capacity.
2. Respondent shall have 120 days from the receipt of a Final Order to complete the requirements for Item 1 of the Notice.
3. It is requested (not mandated) that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Byron Coy, PE, Director, Eastern Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies, and analyses; and 2) total cost associated with replacements, additions, and other changes to pipeline infrastructure.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000 for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

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 sent to: Associate Administrator, Office of Pipeline

Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. PHMSA will accept petitions received no later than 20 days after receipt of service of this Final Order by the Respondent, provided they contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.215. The filing of a petition automatically stays the payment of any civil penalty assessed. Unless the Associate Administrator, upon request, grants a stay, all other terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued