



U.S. Department  
of Transportation

**Pipeline and  
Hazardous Materials Safety  
Administration**

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

JUN 29 2005

Mr. John Earley  
Senior Vice President  
Gulf South Pipeline Company, L.P.  
20 East Greenway Plaza  
Suite 900  
Houston, Texas 77074

RE: CPF No. 2-2005-1014

Dear Mr. Earley:

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 \$59,000. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon payment. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Sincerely,

James Reynolds  
Pipeline Compliance Registry  
Office of Pipeline Safety

Enclosure

cc: Ms. Linda Daugherty, Director, Southern Region, OPS

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

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

**In the Matter of**

**GULF SOUTH PIPELINE COMPANY, L.P.,**

**Respondent.**

**CPF No. 2-2005-1014**

**FINAL ORDER**

Between October 12 -15, October 25-29 and December 6-10, 2004, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Southern Region, Office of Pipeline Safety conducted an on-site pipeline safety inspection of Respondent's pipeline facilities in Alabama, Florida, and Mississippi and reviewed records at Respondent's Mobile, Alabama, Flowood, Mississippi, and Petal Mississippi offices. As a result of the inspection, the Director, Southern Region, OPS, issued to Respondent, by letter dated September 26, 2005, 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 committed violations of 49 C.F.R. Part 192 and proposed assessing a total civil penalty of \$59,000 for the alleged violations.

Respondent responded to the Notice by letter dated November 28, 2005 (Response). Respondent did not contest the allegations of violation but offered an explanation and provided information concerning the corrective actions it has taken. Respondent did not request a hearing, and therefore has waived its right to one.

**FINDINGS OF VIOLATION**

***Uncontested Violations***

Respondent did not contest the alleged violations in **Items 3 and 8** of the Notice. Accordingly, I find that Respondent violated the following sections of 49 C.F.R. Part 192 as more fully described in the Notice:

49 C.F.R. § 192.465(a) and (d) -- failure to test each pipeline that is under cathodic protection at least once each calendar year, but with intervals not exceeding 15 months, to determine whether cathodic protection meets the requirements of § 192.463. Respondent also failed to take prompt remedial action to correct any deficiencies indicated by the monitoring;

49 C.F.R. § 192.619(a) 1-4 -- failure to operate a segment of steel or plastic pipeline at a pressure that does not exceed the maximum allowable operating pressure. On November 6, 2004, a regulator and monitor failed at Respondent's Whistler's Junction facility causing an overpressure situation on its Pensacola 16" line and Courtaulds line. The pressure on the Pensacola 16" line and Courtaulds line exceeded the line MAOP for 5 hours and 44 minutes and exceeded 110% of MAOP for 4 hours and 26 minutes.

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 \$100,000 per violation for each day of the violation up to a maximum of \$1,000,000 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 total civil penalty of \$59,000 for violations of 49 C.F.R. Part 192.

**Item 3** of the Notice proposed a civil penalty of \$9,000 for violation of 49 C.F.R. § 192.465(a) and (d), as Respondent failed to test each pipeline that is under cathodic protection at least once each calendar year, but with intervals not exceeding 15 months, to determine whether cathodic protection meets the requirements of § 192.463. Respondent also failed to take prompt remedial action to correct any deficiencies indicated by the monitoring. Respondent did not contest the violation or the civil penalty. The risk of corrosion on the pipeline significantly increases without proper cathodic protection systems. Preventive maintenance is critical to the safety of the public, environment and property. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$9,000 for violation of 49 C.F.R. § 192.465(a) and (d).

**Item 8** of the Notice proposed a civil penalty of \$50,000 for violation of 49 C.F.R. § 192.619(a), as Respondent failed to operate a segment of steel or plastic pipeline at a pressure that does not exceed the maximum allowable operating pressure. On November 6, 2004, a regulator and monitor failed at Respondent's Whistler's Junction facility causing an overpressure situation on its Pensacola 16" line and Courtaulds line. The pressure on the Pensacola 16" line and Courtaulds line exceeded the line MAOP for 5 hours and 44 minutes and exceeded 110% of MAOP for 4 hours and 26 minutes. Respondent did not contest the violation or the civil penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$50,000 for violation for 49 C.F.R. § 192.619(a).

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$59,000.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require this payment 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 directed to: Financial Operations Division (AMZ-300), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125; (405) 954-8893.

Failure to pay the \$59,000 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 United States District Court.

#### WARNING ITEMS

The Notice did not propose a civil penalty or compliance action for **Items 1, 2, 4, 5, 6 and 7** in the Notice; therefore, these are considered warning items. Respondent is warned that if it does not take appropriate action to correct these items, enforcement action will be taken if a subsequent inspection reveals a violation.

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 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. However if Respondent submits payment for the civil penalty, the Final Order becomes the final administrative decision and the right to petition for reconsideration is waived. The terms and conditions of this Final Order are effective on receipt.

*for*  
  
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Stacey Gerard  
Associate Administrator  
for Pipeline Safety

JUN 29 2006

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Date Issued