



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety Administration**

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

SEP - 1 2006

Mr. W.D. Scott  
Senior Vice President, COO  
Colonial Pipeline Company  
P.O. Box 1624  
Alpharetta, Georgia 30009-9934

RE: CPF No. 2-2005-5012

Dear Mr. Scott:

Enclosed is the Final Order issued by the Acting Associate Administrator for Pipeline Safety in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$5,000. 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: Mr. David V. Pearson, Asset Integrity Team Leader, Colonial Pipeline Company  
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** )

**COLONIAL PIPELINE COMPANY,** )

**Respondent** )

**CPF No. 2-2005-5012**

**FINAL ORDER**

From March 7, 2005 to June 10, 2005, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration, conducted an on-site pipeline safety inspection of Respondent's facilities and records in Alabama, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee. 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 had committed violations of 49 C.F.R. Part 195 and proposed assessing a civil penalty of \$5,000 for the alleged violation.

Respondent responded to the Notice by letter dated October 25, 2005 (Response). Respondent did not contest the allegation of violation but 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)**

In its Response, Respondent did not contest the alleged violation in **Item 3** of the Notice. Accordingly, I find that Respondent violated the following sections of 49 C.F.R. Part 195, as more fully described in the Notice:

49 C.F.R. § 195.573 -- failing to demonstrate the correction of any identified deficiency in external corrosion control as required by § 195.401(b) or § 195.452(h). Respondent had 10 locations with external corrosion control deficiencies noted during the 2003 and 2004 annual surveys and Respondent failed to provide records to demonstrate that the external corrosion control deficiencies were corrected.

This finding of violation will be considered a prior offense 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. The Notice proposed a \$5,000 civil penalty for violation of 49 C.F.R. § 195.573.

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 \$5,000 in **Item 3**, as Respondent failed to correct the external corrosion control deficiencies identified at the ten (10) locations noted during its 2003 and 2004 annual surveys. Respondent did not provide records to show it corrected low pipe-to-soil readings discovered during their 2003 annual cathodic protection survey within one calendar year, but not to exceed 15 months, of their discovery.

In its Response, Respondent did not dispute the alleged violation but offered information to explain the allegation. Respondent advised that it has an ongoing corrosion control program in place that address annual test readings of cathodic protection levels that do not meet its criteria. Many areas are addressed each year but the time required to determine if a cathodic protection deficiency exists and make repairs vary based on the condition at each site. Respondent further advised that the specific areas cited in the Notice have been investigated, that the corrective actions have been developed for the deficient areas and that a schedule was set to correct the deficiencies by the end of 2005.

The low readings were identified during May and June 2003. Contrary to Respondent's assessment, corrective measures should have been completed by September 2004. At the time of the inspection, Respondent had exceeded the 15-month interval by at least nine months and had also exceeded the calendar year requirement.

Without the required documentation, an operator cannot verify that it corrected the external corrosion control deficiencies. By not correcting the external corrosion control deficiencies, Respondent operated the line in a condition that could have reduced the integrity of the pipe and increase the risk of harm to the public and the environment. Respondent did not contest the allegation of violation and has not provided any evidence that would justify mitigation of the proposed civil penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,000 for this violation.

Payment of the civil penalty must be made within 20 days of service. Payment may 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-300), P.O. Box 25082, 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. 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 \$5,000 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 an United States District Court.

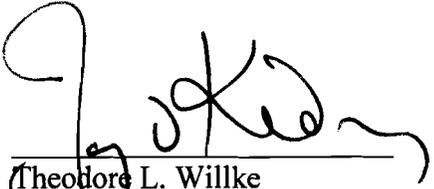
### WARNING ITEM

The Notice did not propose a civil penalty or corrective action for Items 1 and 2 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. The warnings were for -

49 C.F.R. §195.410 - failure to place and maintain line markers over each buried pipeline so that its location is accurately known. Respondent's line markers at Pine Grove Road in Ringgold, Georgia were obscured by vegetation. At the intersection of Atlanta Country Club Road and River Knoll Drive in Cobb County, Georgia the markers were obscured by vegetation on the downstream side and missing on the upstream side.

49 C.F.R. §195.412 - failure to inspect right-of-ways and crossings under navigable waters, as a tree canopy obscured visibility of the right-of-way on the downstream side of South Seven Oaks Road, in Knoxville, Tennessee.

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 a 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 upon receipt.

  
 Theodore L. Willke  
 Acting Associate Administrator  
 for Pipeline Safety

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 Date Issued