



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

APR 13 2006

Mr. Juan Carlos Cortes
President - Board of Director
Pipelines of Puerto Rico
P. O. Box 366697
San Juan, Puerto Rico 00936-6697

RE: CPF No. 2-2005-6023

Dear Mr. Cortes:

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 \$17,500. 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

Pipelines of Puerto Rico,

Respondent.

CPF No. 2-2005-6023

FINAL ORDER

On June 27-28, 2005, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Southern Region, conducted an integrity management inspection of Respondent's facilities and records in San Juan, Puerto Rico. As a result of the inspection, the Director, Southern Region, OPS, issued to Respondent, by letter dated September 14, 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 195 and proposed assessing a total civil penalty of \$17,500 for the alleged violations.

Respondent failed to respond within 30 days after it had received the Notice. Respondent's failure to respond constitutes a waiver of Respondent's right to contest the allegations in the Notice and authorizes the entry of this Final Order.

FINDINGS OF VIOLATION

Uncontested Violations

Respondent did not contest the alleged violations in 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. § 195.452(b)(1) -- failing to develop and implement a written integrity management program in accordance with § 195.452;

49 C.F.R. § 195.452(b)(2) -- failing to identify each pipeline or pipeline segment that is a category 2 pipeline;

49 C.F.R. § 195.452(b)(3) -- failing to develop a plan to carry out baseline assessments of the line pipe, as required by § 195.452(c). 49 C.F.R. § 195.452(c) requires that if an operator chooses other technology, the operator must notify PHMSA ninety (90) days before conducting the assessment.

49 C.F.R. § 195.452(b)(4) -- failing to develop an integrity management program with a framework that address each element of the integrity management program under paragraph (f) of this section.

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 \$17,500 for violations of 49 C.F.R. Part 195.

Item 1 of the Notice proposed a civil penalty of \$5,000 for violation of 49 C.F.R. § 195.452(b)(1), as Respondent failed to develop and implement a written integrity management program in accordance with § 195.452. 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 \$5,000 for violation of 49 C.F.R. § 195.452(b)(1).

Item 2 of the Notice proposed a civil penalty of \$2,500 for violation of 49 C.F.R. § 195.452(b)(2), as Respondent failed to identify each pipeline or pipeline segment that is a category 2 pipeline. 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 \$2,500 for violation for 49 C.F.R. § 195.452(b)(2).

Item 3 of the Notice proposed a civil penalty of \$5,000 for violation of 49 C.F.R. § 195.452(b)(3), as Respondent failed to develop a plan to carry out baseline assessments of the line pipe, as required by § 195.452(c). 49 C.F.R. § 195.452(c) requires that if an operator chooses other technology, the operator must notify PHMSA ninety (90) days before conducting the assessment. 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 \$5,000 for violation for 49 C.F.R. § 195.452(b)(3).

Item 4 of the Notice proposed a civil penalty of \$5,000 for violation of 49 C.F.R. § 195.452(b)(4), as Respondent failed to develop an integrity management program with a framework that address

each element of the integrity management program under paragraph (f) of this section. 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 \$5,000 for violation for 49 C.F.R. § 195.452(b)(4).

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$17,500.

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 \$17,500 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.

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 Stacey Gerard

Stacey Gerard
Associate Administrator
for Pipeline Safety

APR 13 2006

Date Issued