



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

PERMITS AND SAFETY

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

APR 26 2005

Mr. Bob Bahnick
Senior Vice-President
Southern Star Central Gas Pipeline, Inc.
4700 Highway 56
Owensboro, KY 42301

RE: CPF No. 3-2005-1015

Dear Mr. Bahnick:

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 \$295,000. 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: Nicholas Hetman, Counsel for Southern Star
Ivan Huntoon, Director, Central 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)	
Southern Star Central Gas Pipeline, Inc.,)	CPF No. 3-2005-1015
Respondent.)	

FINAL ORDER

On September 16, 2003, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) initiated an investigation of a report by the State of Kansas of an August 5, 2003 incident. The incident involved a release of natural gas from Respondent's pipeline system. As a result of the investigation, the Director, Central Region, OPS, issued to Respondent, by letter dated August 8, 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 violated 49 C.F.R. §192 and proposed assessing a civil penalty of \$394,000 for the alleged violations.

Respondent responded to the Notice by letter dated, September 8, 2005 (Response). Respondent did not contest the allegations of violation, but offered an explanation and requested that the proposed civil penalty be reduced or eliminated. Respondent requested a hearing. The hearing was held on February 2, 2006 in Kansas City, Missouri.

FINDINGS OF VIOLATION

Uncontested

Respondent did not contest the alleged violations of §49 C.F.R. §192 in Items 1, 2 and 3 of the Notice. Accordingly, I find that Respondent violated 49 C.F.R. Part 195, as more fully described in the Notice:

49 C.F.R. §192.605(a) – failure to follow the procedural manual for conducting operations and maintenance activities and for emergency response at the Kechi High Pressure Station.

49 C.F.R. §192.619(a)(1) – failure to operate pipeline components at a pressure that does not exceed the design pressure of the weakest element in a pipeline segment that formed the basis for the established MAOP. The Instromet Rotary

meter was operated at approximately 350 psig, well in excess of 110% of the MAOP. 49 C.F.R. §192.739 (a-d) – failure to test and inspect once each calendar year, at intervals not exceeding 15 months, each pressure limiting station, relief device (except rupture discs), and pressure regulating station and its equipment. Respondent failed to determine that the regulators were in good mechanical condition, reliable, and set at the correct pressures. The monitor regulator failed on June 14, 2003, as a result of a foreign object in the line.

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. The Notice proposed a \$394,000 civil penalty for violations of 49 C.F.R. Part 192.

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.

Item 1 of the Notice proposed a civil penalty of \$94,000 for violation of 49 C.F.R. § 192.605, as Respondent failed to follow procedures for responding to, investigating, and correcting the cause of each abnormal operation, including the operation of any safety device, as required by §192.605(c)(1). Respondent did not contest the allegation of violation. Respondent acknowledged that during the period from November 18, 2002 until June 14, 2003 its personnel responsible for correcting abnormal operating conditions on regulating facilities, inspected the facilities but failed to follow procedures. However, Respondent explained that additional overpressure protection equipment was in place downstream of the failed regulators. Respondent submitted additional documentation to demonstrate that its facility serves two distinct distribution systems. Respondent showed that the overpressure protection equipment in place downstream was rated for a pressure sufficient to safeguard the facilities from over pressurization. Although the equipment is not owned or maintained by Respondent, it is rated for a pressure sufficient to safeguard the Wichita Heights High School facility from over pressurization.

The primary objective of the Federal pipeline safety standards is safe operation of pipeline systems. Failure to conduct inspections to find and correct deficiencies could adversely affect public safety. Based upon the testimony and documentation presented by Respondent at the hearing, that additional overpressure protection equipment was downstream of the failed regulators, it is determined that the proposed civil penalty be reduced from \$94,000 to \$70,000.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$70,000 for violation of 49 C.F.R. § 192.605.

Item 2 of the Notice proposed a civil penalty of \$200,000 for violation of 49 C.F.R. §192.619(a)(1), as Respondent failed to operate pipeline components at a pressure that does not exceed the design pressure of the weakest element in a pipeline segment that formed the basis for the established MAOP. The Instromet Rotary meter was operated at approximately 350 psig, well in excess of 110% of the MAOP. Respondent did not dispute the fact that it failed to limit the maximum allowable operating pressure of its pipeline. However, Respondent presented mitigating evidence at the hearing to show that the gravity of the release did not extend to possible over pressurization of the Wichita Heights school's facilities. Therefore, it is determined that the proposed civil penalty be reduced from \$200,000 to \$150,000. The primary objective of the Federal pipeline safety standards is public safety. Failure to operate pipeline components at a pressure that does not exceed the design pressure of the weakest element in a pipeline segment could adversely affect the safety of the pipeline. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$150,000 for violation of 49 C.F.R. §192.619(a)(1).

Item 3 of the Notice proposed a civil penalty of \$100,000 for violation of 49 C.F.R. §192.739 (a-d), as Respondent failed to inspect and test each pressure limiting station, relief device, and pressure regulating station and its equipment at intervals not exceeding 15 months, but at least once each calendar year. Respondent acknowledged that it failed to perform an adequate inspection of its regulating and overpressure protection equipment to determine several factors as required by federal regulations. Respondent's failure to perform an adequate inspection resulted in an unintended release of gas, damage to Respondent's gas facilities, and a service outage involving inherent safety risks.

During the hearing, Respondent presented mitigating evidence to show that the gravity of the release did not extend to possible over pressurization of the Wichita Heights school's facilities and that the actual consequences and threats were primarily limited to Respondent's facilities. Therefore, it is determined that the proposed civil penalty be reduced from \$100,000 to \$75,000. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$75,000 for violation of 49 C.F.R. §192.739.

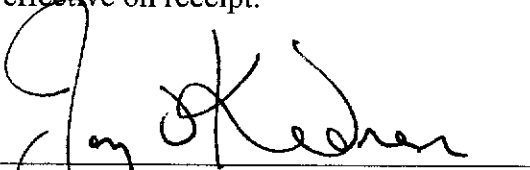
Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$295,000. A determination has been made that Respondent has the ability to pay this penalty without adversely affecting its ability to continue business.

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 \$295,000 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.

Failure to comply with this Final Order may result in the assessment of civil penalties of up to \$100,000 per violation per day, or in the referral of the case for judicial enforcement.

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.



Stacey Gerard
Associate Administrator
for Pipeline Safety

APR 26 2006

Date Issued



**INSTRUCTIONS FOR ELECTRONIC FUNDS TRANSFER TO
THE FEDERAL AVIATION ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION**

1. <u>RECEIVER'S ABA NO.</u> 021030004	2. <u>TYPE SUBTYPE</u> (provided by sending bank)
3. <u>SENDING BANK ABA NO.</u> (Provided by sending bank)	4. <u>SENDING BANK REF NO.</u> (Provided by sending bank)
5. <u>AMOUNT</u>	6. <u>SENDING BANK NAME</u> (Provided by sending bank)
7. <u>RECEIVER NAME:</u> TREAS NYC	8. <u>PRODUCT CODE</u> (Normally CTR, or as provided by sending bank)
9. <u>BENEFICIARY (BFN) - AGENCY LOCATION CODE</u> <u>BNF=/ ALC 69-14-0001</u>	10. <u>REASONS FOR PAYMENT</u> Example: PHMSA - Case # / Ticket Number/Pipeline Assessment number

INSTRUCTIONS: You, as sender of the wire transfer, must provide the sending bank with the information for Block (1), (5), (7), (9), and (10). The information provided in blocks (1), (7), and (9) are constant and remain the same for all wire transfers to Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

Block #1 - RECEIVER ABA NO.- "021030004". Ensure the sending bank enters this nine-digit identification number; it represents the routing symbol for the U.S. Treasury at the Federal Reserve Bank in New York.

Block #5 - AMOUNT - You as the sender provide the amount of the transfer. Please be sure the transfer amount is punctuated with commas and a decimal point. EXAMPLE; \$10,000.00

Block #7 - RECEIVER NAME - "TREAS NYC." Ensure the sending bank enters this abbreviation; it must be used for all wire transfer to the Treasury Department.

Block #9 - BENEFICIARY- AGENCY LOCATION CODE -"BNF=/ALC69140001"
Ensures the sending bank enters this information. This is the Agency Location Code for Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

Block #10 - REASON FOR PAYMENT - "AC-payment for PHMSA Case # / To
ensure your wire transfer is credited properly, enter the case number/ticket number or Pipeline Assessment number, and country."

Note: - A wire transfer must comply with the format and instructions or the Department cannot accept the wire transfer. You, as the sender, can assist this process by notifying, at the time you send the wire transfer to the General Accounting Division (405) 954-8893.