



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

APR 10 2006

Mr. Jim Lamanna
President
BP Pipelines (North America) Inc.
28100 Torch Parkway
Warrenville, IL 60555

Re: CPF No. 3-2005-5012

Dear Mr. Lamanna:

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 \$45,250. 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. 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 |) | |
| |) | |
| BP Pipelines (North America) Inc. |) | CPF No. 3-2005-5012 |
| |) | |
| Respondent. |) | |
| |) | |

FINAL ORDER

During the weeks of June 7, 2004, June 28, 2004, August 9, 2004, August 16, 2004, August 23, 2004, and September 13, 2004, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) conducted on-site pipeline safety inspections of Respondent's River Rouge pipeline facilities and records in Indiana and Michigan; its Chicap pipeline facilities and records in Illinois; its Bushton pipeline facilities and records in Kansas; and all of its pipeline facilities in Ohio. As a result of the inspections, the Director, Central Region, PHMSA, issued to Respondent, by letter dated March 2, 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 \$50,250 for the alleged violations.

Respondent responded to the Notice by letter dated April 6, 2005 (Response). Respondent did not contest the allegations of violation, but provided information concerning the corrective actions it has taken and requested that the proposed civil penalty be reduced. Respondent did not request a hearing, and therefore has waived its right to one.

FINDINGS OF VIOLATION

In its Response, 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. § 195.412(a) (Notice Item 2) – failing to inspect the rights-of-way at certain specified locations using a method that allowed the surface conditions to be observed;

49 C.F.R. § 195.428(a) (Notice Item 3) – failing to inspect three specified pressure control valves on a HVL line within the required interval;

49 C.F.R. § 195.567(c) (Notice Item 4) – failing to maintain five specified test leads in a condition enabling electrical testing to determine the adequacy of cathodic protection.

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.

With respect to Item 2, the Notice proposed a civil penalty of \$40,000 for Respondent's failure to inspect the rights-of-way at eight specified locations using a method that allowed the surface conditions to be observed. In order for pipeline right-of-way patrolling to achieve its purpose of alerting a pipeline operator to encroachments or other conditions that could affect its pipeline, it must be done by a method that allows the surface conditions to be observed. If a pipeline operator chooses to use aerial patrolling, that operator is obligated to ensure vegetation that obstructs the pilot's ability to observe the surface is not present. In its response, Respondent demonstrated that one of the eight areas specified in the Notice was adequately patrolled from the air. Accordingly, I find that a reduction of 1/8 (\$5,000) in the civil penalty amount proposed in the Notice is warranted. Having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$35,000 for violating 49 C.F.R. § 195.412(a).

With respect to Item 3, the Notice proposed a civil penalty of \$9,000 for Respondent's failure to inspect three specified pressure control valves on a HVL line within the required interval. Timely inspection of pressure control devices is an important part of pipeline safety because if these devices fail to operate properly they can contribute to an overpressure event which has the potential to cause damage to the pipeline. In its response, Respondent described the corrective action it took after the PHMSA inspection to ensure that these HVL line valves will be inspected at the appropriate interval in the future, but Respondent has presented no information that would warrant a reduction in the civil penalty amount proposed in the Notice for this violation. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$9,000 for violating 49 C.F.R. § 195.428(a).

With respect to Item 4, the Notice proposed a civil penalty of \$1,250 for Respondent's failure to maintain five specified test leads in a condition enabling the electrical testing necessary to determine the adequacy of cathodic protection. In order for a pipeline system's corrosion control program to be effective, the adequacy of the cathodic protection must be monitored on an ongoing basis. Any broken electrical test leads must be promptly repaired so that the required

readings can be taken. In its response, Respondent described the corrective action it took after the PHMSA inspection to repair the broken test leads, but Respondent has presented no information that would warrant a reduction in the civil penalty amount proposed in the Notice for this violation. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$1,250 for violating 49 C.F.R. § 195.567(c).

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$45,250.

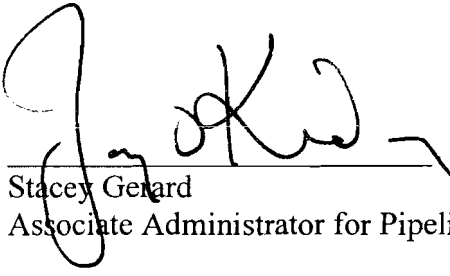
Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require this payment be made by wire transfer, through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the 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 \$45,250 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 ITEM

The Notice did not propose a civil penalty or corrective action for Item 1 in the Notice-Respondent's failure to maintain current maps of the specified facilities in accordance with § 195.404. Therefore, this is considered to be a warning item. Respondent is warned that if it does not take appropriate action to correct this item, 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. Should Respondent elect to do so, 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 on receipt.


for _____
Stacey Gerard
Associate Administrator for Pipeline Safety

APR 10 2006

Date Issued