

September 15, 2017

Mr. Russell K. Girling  
President & CEO  
TransCanada Corporation  
450 – 1 St. SW  
Calgary, Alberta, Canada T2P 5H1

**Re: CPF No. 3-2017-1004**

Dear Mr. Girling

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation, assesses a civil penalty of \$46,600, and specifies actions that need to be taken by ANR Pipeline Company, a subsidiary of TransCanada, to comply with the pipeline safety regulations. This is to acknowledge receipt of payment of the full penalty amount, by certified check, dated April 18, 2017. When the terms of the compliance order are completed, as determined by the Director, Central Region, this enforcement action will be closed. Service of the Final Order by certified mail is effective upon the date of mailing as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

Enclosure

cc: Mr. Allan C. Beshore, Director, Central Region, Office of Pipeline Safety, PHMSA  
Lee Romack, Manager, U.S. Regulatory Compliance, TransCanada, via email at  
lee\_romack@transcanada.com

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

In the Matter of	)	
	)	
ANR Pipeline Company,	)	<b>CPF No. 3-2017-1004</b>
a subsidiary of TransCanada Corporation,	)	
	)	
Respondent.	)	
	)	

**FINAL ORDER**

From July 20, 2015, through December 10, 2015, pursuant to 49 U.S.C. § 60117, representatives of the Michigan Public Service Commission (MI-PSC), acting as interstate agent for the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of ANR Pipeline Company (ANR or Respondent) in multiple locations in Michigan. ANR operates approximately 10,600 miles of natural gas pipeline throughout the Midwest.<sup>1</sup>

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated March 16, 2017, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that ANR had violated 49 C.F.R. § 192.481(b) and proposed assessing a civil penalty of \$46,600 for the alleged violation. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violation and also contained several warning items, advising the operator to correct the probable violations or face possible enforcement action.

ANR responded to the Notice by email dated April 17, 2017 (Response). The company did not contest the allegation of violation and paid the proposed civil penalty of \$46,600. In accordance with 49 C.F.R. § 190.208(a)(1), such payment authorizes the Associate Administrator to make a finding of violation and to issue this Final Order.

**FINDING OF VIOLATION**

In its Response, ANR did not contest the allegation in the Notice that it violated 49 C.F.R. Part 192, as follows:

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<sup>1</sup> ANR's website, available at [https://www.anrpl.com/company\\_info/](https://www.anrpl.com/company_info/) (last accessed June 15, 2017).

**Item 4:** The Notice alleged that Respondent violated 49 C.F.R. § 192.481(b), which states:

**§ 192.481 Atmospheric corrosion control: Monitoring.**

(a) . . .

(b) During inspections the operator must give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbanded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water.

The Notice alleged that Respondent violated 49 C.F.R. § 192.481(b) by failing to inspect its pipeline facilities for atmospheric corrosion at pipe supports and at soil-to-air interface locations. Specifically, the Notice alleged that, despite ANR conducting atmospheric corrosion inspections for the Bridgman Compressor Station in 2013 and 2014 that did not identify atmospheric corrosion, the MI-PSC inspection in 2015 revealed significant atmospheric corrosion. The corrosion was found on the pipe at a soil-to-air interface near the northeast corner of the Bridgman Compressor Station and above a pipe support near the center of the station.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.481(b) by failing to perform atmospheric corrosion monitoring on its pipeline facilities that included inspections with particular attention given to pipe at soil-to-air interfaces and at pipe supports.

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 an administrative civil penalty not to exceed \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.<sup>2</sup> In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$46,600 for the violation cited above.

**Item 4:** The Notice proposed a civil penalty of \$46,600 for Respondent's violation of 49 C.F.R. § 192.481(b), for failing to perform atmospheric corrosion monitoring that included inspections with particular attention given to pipe at soil-to-air interfaces and at pipe supports. ANR neither

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<sup>2</sup> These amounts are adjusted annually for inflation. *See, e.g.*, Pipeline Safety: Inflation Adjustment of Maximum Civil Penalties, 82 Fed. Reg. 19325 (April 27, 2017).

contested the allegation nor presented any evidence or argument justifying a reduction in or elimination of the proposed penalty. ANR's failure to take appropriate action to comply with a requirement that was clearly applicable caused pipeline safety to be significantly compromised in areas that are not in an HCA or an HCA "could affect" segment. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$46,600 for violation of 49 C.F.R. § 192.481(b).

In summary, having reviewed the record and considered the assessment criteria for the Item cited above, I assess Respondent a total civil penalty of **\$46,600**, which has already been paid by Respondent.

### **COMPLIANCE ORDER**

The Notice proposed a compliance order with respect to Item 4 in the Notice for violation of 49 C.F.R. § 192.481(b). Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 192.481(b) (**Item 4**), Respondent must re-survey the Bridgman Compressor Station within 30 days of the date of this Final Order. After the re-survey and within 60 days of the date of this Final Order, ANR must provide the Director, Central Region, PHMSA, with: (1) the operator qualification records of the personnel who conducted the re-survey; (2) the results of the re-survey; and (3) a remedial action list with a timeline for repairs.

It is requested (not mandated) that ANR maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director, Central Region, PHMSA. It is requested that these costs be reported in two categories: (1) total cost associated with preparation/revision of plans, procedures, studies and analyses; and (2) total cost associated with replacements, additions, and other changes to pipeline infrastructures.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000, as adjusted for inflation (49 C.F.R. § 190.223), for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

**WARNING ITEMS**

With respect to Items 1-3, the Notice alleged probable violations of Part 192 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 192.225(a) **(Item 1)** — Respondent's alleged failure to use properly qualified and applicable welding procedures during remedial work;

49 C.F.R. § 192.707(d)(2) **(Item 2)** — Respondent's alleged failure to have appropriate line markers for mains and transmission lines; and

49 C.F.R. § 192.709(c) **(Item 3)** — Respondent's alleged failure to maintain a record of each patrol, survey, inspection, and test required under subparts L and M of Part 192 for at least five years or until the next patrol, survey, inspection, or test is completed, whichever is longer.

If OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

September 15, 2017

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Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

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Date Issued