

May 16, 2019

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

Re: CPF No. 3-2018-1001

Dear Mr. Girling:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$46,600. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer dated August 8, 2018. It further finds that your subsidiary, ANR Pipeline Company, has completed the actions specified in the Notice to comply with the pipeline safety regulations. Therefore, this enforcement action is now closed. Service of the Final Order by certified mail is effective 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 Beshore, Director, Central Region, Office of Pipeline Safety, PHMSA
Mr. Stanley Chapman, Senior Vice President and General Manager, TransCanada Corporation, 700 Louisiana Street, Houston, Texas 77002
Mr. Lee Romack, Manager, U.S. Regulatory Compliance, TransCanada Corporation, 700 Louisiana Street, Houston, Texas 77002

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,
a subsidiary of TransCanada Corporation,**

Respondent.

CPF No. 3-2018-1001

FINAL ORDER

From July 26 through August 25, 2016, pursuant to 49 U.S.C. § 60117, representatives of 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), a subsidiary of TransCanada Corporation (TransCanada), in Indiana and Illinois, more specifically the St. John, Celestine, LaGrange, and Sulphur Springs units of the ANR Pipeline. The ANR Pipeline transports natural gas from Texas, Oklahoma, and Louisiana to cities and towns in Wisconsin, Michigan, Illinois and Ohio.¹ The ANR Pipeline is approximately 10,600 miles in length and has a capacity of more than six billion cubic feet of natural gas.²

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated April 24, 2018, 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. §§ 192.905(b)(1), 192.905(c) and 192.709(c) and proposed assessing a civil penalty of \$46,600 for two of the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations.

After requesting and receiving an extension of time to respond, TransCanada responded to the Notice on behalf of ANR by letter, dated July 23, 2018 (Response). The company did not contest the allegations of violation, but provided information concerning the corrective actions ANR had taken. The company also paid the proposed penalty of \$46,600 by wire transfer, dated August 8, 2018. In accordance with § 190.208(a)(1), such payment authorizes the Associate Administrator to make findings of violation and to issue this Final Order without further proceedings.

¹ TransCanada ANR Pipeline site, *available at* www.transcanada.com/en/operations/natural-gas-anr-pipeline (last accessed Feb. 27, 2019).

² *Id.*

FINDINGS OF VIOLATION

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

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.905(b)(1), which states:

§ 192.905 How does an operator identify a high consequence area?

(a)

(b)(1) *Identified sites.* An operator must identify an identified site, for purposes of this subpart, from information the operator has obtained from routine operation and maintenance activities and from public officials with safety or emergency response or planning responsibilities who indicate to the operator that they know of locations that meet the identified site criteria. These public officials could include officials on a local emergency planning commission or relevant Native American tribal officials.

The Notice alleged that Respondent violated 49 C.F.R. § 192.905(b)(1) by failing to identify an identified site, for purposes of Subpart O, from information the operator obtained from routine operation and maintenance activities and from public officials with safety or emergency response or planning responsibilities who indicate to the operator that they know of locations that meet the identified site criteria. Specifically, the Notice alleged that ANR failed to identify a High Consequence Area (HCA) around the ANR Pipeline's Celestine Unit near French Lick, Indiana, at the Pete Dye Golf Course. The Notice alleged that ANR failed to incorporate this HCA into its Integrity Management Program until seven years after the pipeline had been in operation at that site.

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. § 192.905(b)(1) by failing to identify an identified site, for purposes of Subpart O, from information the operator obtained from routine operation and maintenance activities and from public officials with safety or emergency response or planning responsibilities who indicate to the operator that they know of locations that meet the identified site criteria.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.905(c), which states:

§ 192.905 How does an operator identify a high consequence area?

(a)

(c) *Newly identified areas.* When an operator has information that the area around a pipeline segment not previously identified as a high consequence area could satisfy any of the definitions in § 192.903, the operator must complete the evaluation using method (1) or (2). If the segment is determined to meet the definition as a high consequence area, it must be incorporated into the operator's baseline assessment plan as a high consequence area within one year from the date the area is identified.

The Notice alleged that Respondent violated 49 C.F.R. § 192.905(c) by failing to complete an evaluation to identify a HCA using method (1) or (2) from the definition of “High Consequence Area” contained in § 192.903 when the operator had information that the area around a pipeline segment not previously identified as an HCA could satisfy any of the definitions in § 192.903, and by failing to incorporate an identified HCA in the operator’s baseline assessment plan as an HCA within one year from the date the area was identified. Specifically, the Notice alleged that ANR failed to incorporate a newly-identified HCA, i.e., the area starting at milepost 858 and extending to milepost 858.3 along the ANR Pipeline Mainline Loop, into its baseline assessment plan within one year from the date the HCA was identified by the company.

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. § 192.905(c) by failing to incorporate an identified HCA in the operator’s baseline assessment plan within one year from the date the area was identified.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.709(c), which states:

§ 192.709 Transmission Lines: Record keeping.

Each operator shall maintain the following records for transmission lines for the periods specified:

(a)

(c) A record of each patrol, survey, inspection, and test required by subparts L and M of this part must be retained for at least 5 years or until the next patrol, survey, inspection, or test is completed, whichever is longer.

The Notice alleged that Respondent violated 49 C.F.R. § 192.709(c) by failing to retain a record of each patrol, survey, inspection, and test required by 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. Specifically, the Notice alleged that ANR did not retain records of odorization testing at the Crown Point interconnect on the ANR Pipeline from 2013 through 2016. Additionally, the Notice alleged that ANR failed to retain any records regarding overpressure-protection inspections at the Alliance interconnect on the ANR Pipeline.

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. § 192.709(c) by failing to retain a record of each patrol, survey, inspection, and test required by 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.

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 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.³ 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; 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 violations cited above.

Item 1: The Notice proposed a civil penalty of \$15,500 for Respondent's violation of 49 C.F.R. § 192.905(b)(1), for failing to identify an identified site, for purposes of Subpart O, from information the operator obtained from routine operation and maintenance activities and from public officials with safety or emergency response or planning responsibilities who indicated to the operator that they knew of locations that met the identified-site criteria. ANR neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$15,500 for violation of 49 C.F.R. § 192.905(b)(1).

Item 2: The Notice proposed a civil penalty of \$31,100 for Respondent's violation of 49 C.F.R. § 192.905(c), for failing to incorporate an identified HCA into ANR's baseline assessment plan within one year from the date the area was identified. ANR neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$31,100 for violation of 49 C.F.R. § 192.905(c).

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total civil penalty of **\$46,600**, which amount was paid in full by wire transfer dated August 8, 2018.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to **Item 3** in the Notice for a violation of 49 C.F.R. § 192.709(c). 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. The Director indicates that Respondent has taken the following actions specified in the proposed compliance order:

1. With respect to the violation of § 192.709(c) (**Item 3**), Respondent has instituted work orders in its Work Management System requiring operating personnel to create and maintain the required compliance records at the subject locations annually. Respondent has also instituted ongoing work orders to witness the required tests and

³ These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223; Revisions to Civil Penalty Amounts, 83 Fed. Reg. 60732, 60744 (Nov. 27, 2018).

inspections whenever they can be coordinated with third-party operators.

Accordingly, I find that compliance has been achieved with respect to this violation. Therefore, the compliance terms proposed in the Notice are not included in this Order.

This enforcement action is now closed. The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

May 16, 2019

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued