



U.S. Department  
of Transportation  
**Research and  
Special Programs  
Administration**

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

OCT 30 2003

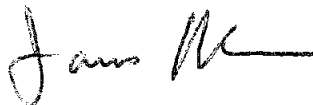
Ms. Stacy Methvin  
President  
Shell Pipeline Company  
(formerly known as Equilon Pipeline Company, L.L.C.)  
Two Shell Plaza  
Houston, Texas 77252

RE: CPF No. 4-2001-5003

Dear Ms. Methvin:

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 \$50,000 for those violations. I acknowledge receipt of and accept your wire transfer of \$50,000 to the Department of Transportation on or about July 31, 2002, as payment in full of the civil penalty assessed in the Final Order. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Sincerely,

*for* 

Gwendolyn M. Hill  
Pipeline Compliance Registry  
Office of Pipeline Safety

Enclosure

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

DEPARTMENT OF TRANSPORTATION  
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION  
OFFICE OF PIPELINE SAFETY  
WASHINGTON, DC 20590

\_\_\_\_\_  
In the Matter of )  
Shell Pipeline Company, formerly known as ) CPF No. 4-2001-5003  
Equilon Pipeline Company, L.L.C., )  
Respondent. )  
\_\_\_\_\_ )

**FINAL ORDER**

On July 6, 2000, a representative of the Office of Pipeline Safety (OPS) initiated an investigation of Respondent's report of an accident involving its pipeline system. As a result of the investigation, the Director, Eastern Region, OPS, issued to Respondent by letter dated October 18, 2001, 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. § 195.402 and proposed assessing a civil penalty of \$50,000 for the alleged violation.

Respondent requested and was granted an extension to respond until February 21, 2002. Respondent responded to the Notice by letter dated February 21, 2002 (Response). Respondent contested all of the allegations, offered information in explanation of the allegations, and requested a hearing. By letter dated July 26, 2002, Respondent withdrew its request for a hearing. On or about July 31, 2002, Respondent made a wire transfer of \$50,000 to the Department of Transportation for this case, waiving further right to respond, and authorizing the entry of this final order.

**FINDING OF VIOLATION**

According to the Notice, on July 6, 2000, a contractor hired by a timber company punctured Respondent's Millenium Pipeline in Angelina County, Texas, spilling 607 barrels of crude oil on the surrounding ground and into a nearby creek. The Notice alleged that Respondent violated § 195.402(a) in failing to follow its manual of written procedures with respect to its damage prevention program, pipeline patrols and permanent line markers.

The Notice's first allegation was that Respondent did not notify the timber company to make them aware of Respondent's damage prevention program. In its Response, Respondent stated that the pipeline, which was previously idle, was placed into service less than a month before the spill. Respondent acknowledged that the timber company was not listed in its Public Education -

Contractor Awareness program. Respondent stated that the list is based on Standard Industrial Classification Codes. Because the timber company was listed as a real estate company, and not a construction or excavation company, it was not invited to participate in an annual Contractor Awareness Program.

Respondent stated that after the release, it added the timber company to the list and made three face to face safety meeting presentations to the company. Respondent listed several public education activities it implemented in the fall of 2000 and spring of 2001 as part of an expanded outreach program.

The Notice further alleged that Respondent did not follow its manual's section on pipeline patrols. According to the manual, the pilot of the fixed wing aircraft is to notify the nearest manned facility or control center of any condition discovered that could impact the safe operation of the pipeline. The patrol pilot is instructed to check for debris on the right-of-way, clearing of land, and any other factors that might impact safe pipeline operation. The Notice alleged that the patrol company's "Flight Report" for April 28, 2000 and May 12, 2000, made no mention of timber harvest activity along the pipeline right-of-way, and as a result, Respondent's field personnel were unaware of the activity near the pipeline.

In its Response, Respondent stated that, based on conversations with the landowner, whose property was the site of the timber harvesting activity, the timber company brought its deep plowing equipment on the property the day before the spill. Respondent said the equipment was placed across the road and a considerable distance from the pipeline. Respondent further stated that the landowner met with the timber company representative on the morning of the spill "to inform him of the pipelines and of the previous day's conversation with their contractor." Respondent stated that the right-of-way had one pipeline marker sign approximately 50 yards to the north of the release site, and another marker approximately 300- 400 yards to the south of the release sight, but both markers "within sight" of the location at which the contractor punctured the pipeline.

The Notice's final allegation was that since Respondent's purchase of the pipeline in 1999, Respondent had not replaced the former pipeline owner's markers with its own name and telephone number and the words "Warning" and "Petroleum," as required by its manual. Respondent stated that it was in the process of changing the markers at the time of the release, which process was completed by December 31, 2000. Respondent had an arrangement with the former owner to refer callers to Respondent. During his investigation, the OPS inspector had called the number on one of the former owner's signs and was referred to Respondent. Respondent stated that the timber company's contractor neither called the toll-free number on the sign, nor contacted the One Call notification center to advise of his intention to excavate in the area.

The Response essentially acknowledges the three instances of not following its manual cited by the Notice. Respondent's explanations do not suffice to relieve it of its responsibility to follow its manual, which is detailed and precise respecting its damage prevention, pipeline patrol and signage procedures.

According to the Notice, the timber company had harvested timber in a sixty square mile area in the vicinity of the Millenium Pipeline for over 50 years. Moreover, on April 24, 2000, on property next to the accident site, the timber company began a regeneration harvest of timber that continued until May 23, 2000. During that time, timber was cut down and hauled away. Respondent should have been aware of these activities.

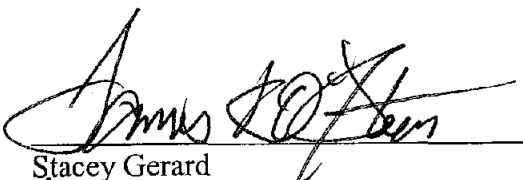
OPS submitted copies of the patrol's flight reports for the following dates: April 14, 20, 28; May 12, 25; June 8, 23; and July 6 of 2000. None appeared to mention harvesting activity around the pipeline.

The June 6, 2000, pipeline spill was the scenario that the pipeline safety regulations are designed to prevent. Had Respondent followed its manual, it would have been aware of the harvesting activity in the vicinity of the pipeline, it would have made contact with the timber company in a timely manner, and, upon acquiring the pipeline, it would have promptly changed the pipeline markers to reflect the new ownership in all locations, however "remote."

As noted in the OPS Violation Report, the spill fortuitously occurred during a drought; otherwise the creek, which is intermittently a stream, could have carried the crude oil into the Angelina River, which feeds water to Lake Sam Rayburn, which is a source of water for a number of communities.

I therefore find, pursuant to § 190.209(a)(1) and 49 U.S.C. 60122, that Respondent violated the following section of 49 C.F.R. § 195.402(a), as described more completely in the Notice.

This finding will be considered as a prior offense in any subsequent enforcement action against Respondent. I assess the civil penalty of \$50,000, already paid by Respondent.

  
Stacey Gerard  
48 Associate Administrator  
for Pipeline Safety

OCT 30 2003

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Date Issued