



US Department
of Transportation

**Research and
Special Programs
Administration**

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

MAR 15 2004

Mr. Jim R. Blackwell
President
Chevron Pipe Line Company
2811 Hayes Road
P.O. Box 4879
Houston, Texas 77210-4879

Re: CPF No. 4-2002-5013

Dear Mr. Blackwell:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$10,000. 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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

_____)
In the Matter of)
)
Chevron Pipe Line Company,)
)
Respondent)
_____)

CPF No. 4-2002-5013

FINAL ORDER

On June 6, 2002, pursuant to 49 U.S.C. § 60117, a representative of the Office of Pipeline Safety (OPS) initiated an investigation of Respondent's report of a release involving its pipeline system. As a result of the investigation, the Director, Southwest Region, OPS, issued to Respondent, by letter dated June 26, 2002, 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. § 195.52(a) and proposed assessing a civil penalty of \$10,000 for the alleged violation.

Respondent responded to the Notice by letter dated August 9, 2002 (Response). Respondent did not contest the allegation of violation but offered an explanation and requested that the proposed civil penalty be reduced. Respondent did not request a hearing, and therefore has waived its right to one.

FINDING OF VIOLATION

In its Response, Respondent did not contest the alleged violation in the Notice. Accordingly, I find that Respondent violated the following section of 49 C.F.R. Part 195, as more fully described in the Notice:

49 C.F.R. § 195.52(a) – failing to give telephonic notice at the earliest practicable moment following discovery of a release of ethylene that resulted in a vent stack fire at a metering station in Jefferson County, Texas.

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 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.

The Notice proposed a civil penalty of \$10,000 for the violation of § 195.52(a). In its Response, Respondent contended that the proposed civil penalty should be reduced to \$2,500 in light of the circumstances that led to Respondent's failure to timely report the release.

Respondent asserted that its decision not to immediately report the incident was based on a number of "unusual" circumstances that led it to believe the incident did not meet the reporting requirements of § 195.52(a). First, the meter station had been at pressures just below Maximum Operating Pressure prior to being shut in. The meter station remained shut in at the time of the release and Respondent did not consider a release through a thermal relief valve to be unusual. Also, the flame observed was not thought to be abnormal, since it was located at the top of a vent stack that can be used for this purpose. Respondent asserted that a reduction in the civil penalty is warranted in light of these circumstances.

The record indicates that after extinguishing the fire, Respondent promptly discovered that its product had released through a thermal expansion valve. Under § 195.52(a), this discovery alone triggered Respondent's obligation to report the incident at the earliest practicable moment, normally 1-2 hours. There is no evidence in the record to suggest that the circumstances of the incident prevented Respondent from providing the proper notice of the release at the earliest practicable moment following discovery. Although Respondent was engaged in an effort to determine the cause of the release, telephonic reporting must be made at the earliest practicable moment following discovery, even when the cause is unknown.

Pipeline operators were given explicit guidance on telephonic reporting requirements in April 1991, when the Department of Transportation issued an Alert Notice (ALN-91-01) emphasizing that telephonic notices can and should be made within 1-2 hours after discovery of the release. On February 3, 1999, Respondent was issued a Warning Letter (CPF No. 4-1999-5001W) in reference to its reporting. On September 27, 2000, Respondent was issued a Final Order (CPF No. 4-2000-5002) for failing to provide notice at the earliest practicable moment following discovery of a crude oil release.

When an operator fails to promptly report a release to the National Response Center, it may compromise public safety by preventing OPS and other regulatory agencies from assessing the situation to determine whether immediate response to the release is necessary. Immediate action may include investigations into the cause of the incident, the regulatory compliance issues, and the need to provide assistance to local public officials.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$10,000.

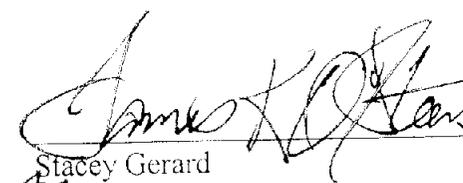
A determination has been made that Respondent has the ability to pay this penalty without adversely affecting its ability to continue in business.

Payment of the civil penalty must be made within 20 days of service. Payment may be made by sending a certified check or money order (containing the CPF Number for this case) payable to "U.S. Department of Transportation" to the Federal Aviation Administration, Mike Monroney Aeronautical Center, Financial Operations Division (AMZ-120), P.O. Box 25082, Oklahoma City, OK 73125.

Federal regulations (49 C.F.R. § 89.21(b)(3)) also permit this payment to 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-120), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125; (405) 954-4719.

Failure to pay the \$10,000 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.

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

MAR 15 2004

Date Issued