



U.S. Department  
of Transportation

**Research and  
Special Programs  
Administration**

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

AUG 24 2004

Mr. Jeffrey Hemmer  
Vice President  
Equistar Pipeline Operations  
1221 McKinney  
One Houston Center  
Houston, TX 77010

RE: CPF No. 4-2004-5003

Dear Mr. Hemmer:

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 \$25,000. 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

cc: Mr. R. M. Seeley, Director, OPS Southwest Region

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

In the Matter of )  
 )  
Equistar Pipeline Operations, )  
 )  
Respondent. )

CPF No. 4-2004-5003

**FINAL ORDER**

On July 22-25 and December 15, 2003, pursuant to 49 U.S.C. § 60117, a representative of the Office of Pipeline Safety (OPS) conducted an on-site pipeline safety inspection of Respondent's facilities and records for its Lake Charles, Louisiana to Orange, Texas 6-inch ethylene pipeline system. As a result of the inspection, the Director, Southwest Region, OPS, issued to Respondent, by letter dated March 3, 2004, 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. §195.404 and proposed assessing a civil penalty of \$25,000 for the alleged violation. The Notice also warned Respondent to take appropriate corrective action.

Respondent responded to the Notice by letter dated April 2, 2004 (Response). Respondent contested the allegation of violation, offered information to explain the allegations and requested that the proposed civil penalty be eliminated. Respondent did not request a hearing, and therefore has waived the right to one.

**FINDINGS OF VIOLATION**

The Notice alleged that Respondent violated 49 C.F.R. §195.404 by not maintaining daily operating records that indicate the discharge pressure at its Lake Charles to Orange 6-inch ethylene pipeline system. The previous OPS inspection was conducted on March 12, 1999. At the time of the July 22-25, 2003 OPS inspection, Respondent did not provide pump discharge pressure records for the period of March 13, 1999 thru the date the plant was shut down, on or about February 17, 2001.

In response, Respondent argued that the pressure records were to be on file for at least the past three years and that Respondent was required to have and provided records from July 22, 2000 until the date of the 2003 inspection. Respondent advised that at the time of the inspection, its SCADA system was configured to only retain 3 months of data. Subsequently, Respondent reconfigured its SCADA historical database to save pump discharge pressures for a period of four years. Respondent further advised that it had hard copies of high and low pressure alarm records from its SCADA

system event logger for the period from February 17, 2001 to July 22, 2000. Respondent argued that the SCADA alarm system continuously updates and documents any pressure spikes on the system and that no alarms occurred that meet this criteria. In support of its position, Respondent submitted a graph that it contends documents alarms recorded during the time period in question which indicates operation within permissible pressure limits. It is Respondent's contention that it has the records from March 1999 to late 2000/early 2001.

At the time of the inspection, July 22-25 and December 15, 2003, Respondent did not provide discharge pressure records of its Lake Charles to Orange 6-inch ethylene pipeline for the period between March 13, 1999 and the date the plant was shut down. 49 C.F.R. §195.404(b)(1) provides that each operator shall maintain for at least three years daily operating records that indicate the discharge pressure at each pump station. "At least three years" is the minimal amount of time these records are to be kept.

Furthermore, the graph of alarm records submitted by Respondent for the period in question, are not a sufficient pressure history and fail to meet the requirements of 49 C.F.R. §195.404. Without the required documentation it is difficult for an operator to ensure that the pipeline system is functioning properly. Without this history, an operator increases the risk of harm to its personnel and the public. Documentation is essential to provide the Operator a useful review tool for operating practices and procedures. Accordingly, I find that Respondent's did not maintain daily operating records of discharge pressure, as required by 49 C.F.R. §195.404.

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. The Notice proposed a \$25,000 civil penalty for violation of 49 C.F.R. § 195.404.

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 \$25,000, as Respondent failed to have daily operating records that indicate the discharge pressure at its Lake Charles to Orange 6-inch ethylene pipeline system from the date of the last inspection, March 13, 1999, until the date the plant was shut down. In response to the Notice and in support of its position, Respondent argued it provided records for the past three years as required by regulation and argued that the proposed \$25,000 civil penalty should be withdrawn, as it provided high and low pressure alarm records from its SCADA system event

logger as documentation of discharge pressures. Respondent is incorrect in its assertion that it is only required to maintain records that go back for three years. Respondent is required to maintain records for a minimum of three years and SCADA alarm documents during the time period in question fail to satisfy 49 C.F.R. § 195.404. Respondent failed to maintain sufficient pressure history records. Respondent has not provided any evidence that would justify mitigation of the proposed civil penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$25,000, for violation of 49 C.F.R. §195.404.

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 may 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) 954-8893.

Failure to pay the \$25,000 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 an United States District Court.

#### WARNING ITEMS

The Notice did not propose a civil penalty or compliance action for this item in the Notice; therefore, this is considered 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.

**Item 2** in the Notice alleged that Respondent failed to provide records to demonstrate that it inspected a five-foot section of pipe for internal corrosion when it was removed in 2002, as required by 49 C.F.R. § 195.579. When pipe is removed from a pipeline, the operator must inspect the internal surface of the pipe for evidence of corrosion. In accordance with 49 C.F.R. § 195.585, if internal corrosion that requires corrective action is found, the operator must investigate circumferentially and longitudinally beyond the removed pipe to determine whether additional corrosion requiring remedial action exists in the area of the removed pipe.

Under 49 C.F.R. § 190.215, Respondent has a right to 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 a petition automatically stays the

payment of any civil penalty assessed. All other terms of the order, including any required corrective action, shall remain in full effect unless the Associate Administrator, upon written request, grants a stay. The terms and conditions of this Final Order are effective upon receipt.

Handwritten signature of Stacey Gerard in cursive, with the initials "FOR" written at the end of the signature.

Stacey Gerard  
Associate Administrator  
for Pipeline Safety

AUG 24 2004

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Date Issued