



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

SEP - 1 2005

Mr. Richard Peneguy, Jr.
Vice President and General Manager, Offshore Division
Noble Energy, Inc.
100 Glenborough Drive, Suite 100
Houston, TX 77067-3618

Re: CPF No. 4-2005-5005

Dear Mr. Peneguy:

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 \$55,000. 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: Robert H. Bemis, Manager Domestic EH&S, Noble Energy, Inc.
R.M. Seeley, Director, Southwest Region, OPS

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, DC 20590

In the Matter of)
)
)

Noble Energy, Inc.,)

CPF No. 4-2005-5005

Respondent)
_____)

FINAL ORDER

On August 9–12, 2004, pursuant to 49 U.S.C. § 60117, representatives of the Office of Pipeline Safety (OPS) conducted an on-site pipeline safety inspection of Respondent's integrity management program in Houston, Texas. As a result of the inspection, the Director, Southwest Region, OPS, issued to Respondent, by letter dated January 6, 2005, 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 committed violations of 49 C.F.R. § 195.452 and proposed assessing a civil penalty of \$55,000 for the alleged violations.

Respondent responded to the Notice by letter dated February 9, 2005 (Response). Respondent did not contest the allegations 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.

FINDINGS OF VIOLATION

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

49 C.F.R. § 195.452(b)(1) – failing to develop a written integrity management program to address the risks on each segment of Category 2 pipeline not later than February 18, 2003. Respondent's initial integrity management program was dated May 7, 2004.

49 C.F.R. § 195.452(b)(2) – failing to identify each Category 2 pipeline or pipeline segment not later than November 18, 2002. Respondent's initial segment identification was included in its integrity management program dated May 7, 2004.

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 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 total civil penalty of \$55,000 for the 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.

Item 1 proposed a civil penalty of \$50,000 for failing to timely develop a written integrity management program for Category 2 pipelines. Failing to develop an integrity management program for each Category 2 pipeline segment delayed the comprehensive analysis and determination of integrity for each segment that, in the event of a leak or failure, could affect a high consequence area. In its Response, Respondent explained that it had misinterpreted the regulatory requirement applicable to operators with less than 500 miles of pipeline. Respondent brought its program into compliance upon learning of this error.

Although Respondent may not have intentionally committed this violation, Respondent is accountable for its conduct that does not comply with federal pipeline safety standards. OPS has issued guidance beyond the text of the regulation to assist operators in determining the applicability of this rule. This guidance is available to all operators on OPS's website (<http://ops.dot.gov>) and by contacting OPS directly. Accordingly, I find the misinterpretation does not justify reducing the civil penalty.

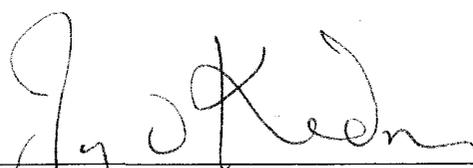
Item 2 proposed a civil penalty of \$5,000 for failing to timely identify each pipeline or pipeline segment in Category 2. In its Response, Respondent explained that it has a good history of compliance as demonstrated through many OPS inspections. Respondent also explained that it has contracted with a consultant to assure future compliance with the pipeline safety regulations. Respondent's good compliance history and subsequent corrective action are recognized. However, the identification of pipeline segments that could affect a high consequence area is a fundamental element of Respondent's integrity management program and failure to identify those pipeline segments necessarily hinders compliance with the remaining integrity management requirements designed to protect high consequence areas. Accordingly, I do not find justification for reducing this civil penalty.

Having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$55,000. 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. Federal regulations (49 C.F.R. § 89.21(b)(3)) require this payment 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, Oklahoma 73125; (405) 954-8893.

Failure to pay the \$55,000 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 action and the right to petition for reconsideration is waived. The terms and conditions of this Final Order are effective on receipt.

for


Stacey Gerard
Associate Administrator
for Pipeline Safety

SEP - 1 2005

Date Issued