



U.S. Department  
of Transportation  
**Pipeline and Hazardous  
Materials Safety  
Administration**

**FEB 28 2008**

1200 New Jersey Ave., S.E.  
Washington, DC 20590

Mr. Jay Suko  
Vice President of Operations, Natural Gas Processing  
Zia Natural Gas Company  
101 Division Street  
P.O. Box 541  
Worland, WY 82401-2401

**Re: CPF No. 4-2006-1006**

Dear Mr. Suko:

Enclosed is the Final Order issued in the above-referenced case. It makes a finding of violation and specifies actions to be taken to comply with the pipeline safety regulations. When the terms of the compliance order are completed, as determined by the Director, Southwest Region, this enforcement action will be closed. Your receipt of this Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

<sup>for</sup>  
Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

Enclosure

**VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

**U.S. DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION  
OFFICE OF PIPELINE SAFETY  
WASHINGTON, D.C. 20590**

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**In the Matter of** )

**Zia Natural Gas Company,** )

**Respondent** )  
\_\_\_\_\_ )

**CPF No. 4-2006-1006**

**FINAL ORDER**

On September 28 and 29, 2004, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration's Office of Pipeline Safety (OPS) and the New Mexico State Corporation Commission (Commission) conducted an on-site pipeline safety inspection of Zia Natural Gas Company's (Respondent) operator qualification (OQ) procedures and records in Worland, Wyoming. As a result of the inspection, the Director, Southwest Region, OPS, issued to Respondent, by letter dated February 21, 2006, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice alleged that Respondent committed a violation of 49 C.F.R. Part 192 and proposed ordering Respondent to take certain measures to correct the alleged violation. The Notice also contained a warning item in accordance with 49 C.F.R. § 190.205.

Respondent responded to the Notice by letter dated March 21, 2006 (Response). Respondent did not contest the allegation of violation and provided information concerning the corrective actions it had taken. By letter dated April 10, 2006, Respondent provided additional information concerning its corrective actions. 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 allegation 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. § 192.805(a), which states:

**§ 192.805 – Qualification program.**

Each operator shall have and follow a written qualification program. The program shall include provisions to:

(a) Identify covered tasks . . . .

The Notice alleged that Respondent failed to have a written qualification program that included provisions to identify covered tasks. Specifically, the Notice alleged that at the time of the OPS and Commission inspection, Respondent's OQ program lacked identification of various covered tasks being performed on Respondent's pipeline system, including excavation, valve inspection, external corrosion, and small tubing/pipe assembly. In its Response, Respondent did not contest this allegation. Accordingly, I find that Respondent violated 49 C.F.R. § 192.805(a) by failing to identify all covered tasks in its OQ program.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

### **COMPLIANCE ORDER**

The Notice proposed a compliance order with respect to Item 1 in the Notice for violation of 49 C.F.R. § 192.805(a). Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas by pipeline or who owns or operates a gas pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations. Respondent must:

1. Amend its OQ program by assigning to each covered task the following, as applicable: abnormal operating conditions; evaluation methods; and span-of-control ratios of qualified to non-qualified individuals.
2. Submit documentation showing the OQ program has been amended as specified in Item 1 of this compliance order within 60 days of receipt of this Final Order. Documentation shall be submitted to the Director, Southwest Region, Office of Pipeline Safety, 8701 South Gessner, Suite 1110, Houston, TX 77074.

The Director, Southwest Region, OPS, may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent demonstrating good cause for an extension.

Failure to comply with this Order may result in administrative assessment of civil penalties up to \$100,000 per day for each violation and in referral to the Attorney General for appropriate relief in a district court of the United States.

The Director, Southwest Region, OPS, has indicated that Respondent has taken the following actions to satisfy the proposed compliance order:

Respondent has reviewed and amended the covered task list associated with its pipeline facilities and has assigned to each covered task evaluation intervals.

Since these actions satisfied portions of the proposed compliance order, those terms are not included in this Final Order.

### WARNING ITEM

With respect to **Item 2**, the Notice alleged a probable violation of Part 192 but did not propose a civil penalty or compliance order for the item. Therefore, this is considered to be a warning item. The warning was for a probable violation of 49 C.F.R. 192.805(b), which states:

**§ 192.805 – Qualification program.**

Each operator shall have and follow a written qualification program. The program shall include provisions to . . .

- (b) Ensure through evaluation that individuals performing covered tasks are qualified . . . .

**§ 192.803 – Definitions.**

. . . .

*Evaluation* means a process, established and documented by the operator, to determine an individual's ability to perform a covered task by any of the following . . .

- (c) Work performance history review . . . .

*Qualified* means that an individual has been evaluated and can:

- (a) Perform assigned covered tasks; and
- (b) Recognize and react to abnormal operating conditions.

**§ 192.809 – General.**

- (a) . . . .

(d) After October 28, 2002, work performance history may not be used as a sole evaluation method . . . .

The Notice alleged that Respondent violated § 192.805(b) by failing to ensure through evaluation that individuals performing covered tasks were qualified. Specifically, the Notice alleged that Respondent qualified certain individuals using work performance history reviews as a sole evaluation method, but could not demonstrate to OPS and Commission inspectors that those evaluations took place prior to October 28, 2002, per §§ 192.805(b) and 192.809(d). In addition, the Notice alleged that Respondent could not demonstrate that it had determined through evaluation the same individuals were able to recognize and react to abnormal operating conditions, per §§ 192.805(b) and 192.803.

In its Response, Respondent did not contest this allegation and provided information demonstrating that it had taken certain actions to address this item. In accordance with 49 C.F.R. § 190.205, I find that a probable violation of 49 C.F.R. § 192.805(b) occurred, but that Respondent has addressed the item. Respondent is warned that if OPS finds a violation of this item in a subsequent inspection, Respondent may be subject to future enforcement action.

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 terms of the order, including any required corrective action, remain in full effect unless the Associate Administrator, upon request, grants a stay.

The terms and conditions of this Final Order shall be effective upon receipt.

*William H. Gutz*

*for*

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Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

FEB 28 2008

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Date Issued