

APR 6 2010

Mr. Brian S. Coffman
President
ConocoPhillips Pipe Line Company
600 North Dairy Ashford
Houston, TX 77079

Re: CPF No. 4-2009-5006

Dear Mr. Coffman:

Enclosed is the Final Order issued in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$200,000. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon payment. Service of this Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided in 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

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

Mr. Todd L. Tullio, Manager, Regulatory Compliance, ConocoPhillips Pipe Line Co.
South Tower 460-68, 1000 South Pine, P.O. Box 1267, Ponca City, OK 74602

CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7009 1410 0000 2472 5330]

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

_____)
In the Matter of)

ConocoPhillips Pipe Line Company,)

CPF No. 4-2009-5006

Respondent.)
_____)

FINAL ORDER

On February 11–14, 2008, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an investigation of an accident that occurred on January 8, 2008, involving the release of approximately 31,322 barrels of crude oil from a pipeline operated by ConocoPhillips Pipe Line Company (ConocoPhillips or Respondent) near Denver City, Texas. The pipeline that experienced the failure is 290 miles in length and transports crude oil between the company’s Odessa Pump Station in Ector County, Texas, and the Wasson Pump Station in Yoakum County, Texas. ConocoPhillips operates approximately 11,000 miles of pipeline transporting petroleum products, highly volatile liquids, crude oil, and natural gas, primarily in Texas, Oklahoma, and other states in the West and Midwest.

As a result of the investigation, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated March 30, 2009, 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 a violation of 49 C.F.R. Part 195 and proposed assessing a civil penalty of \$200,000 for the alleged violation.

ConocoPhillips responded to the Notice by letter dated April 30, 2009 (Response). Respondent did not contest the allegation of violation but 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

The Notice alleged that Respondent committed a violation of 49 C.F.R. Part 195, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.402, which states:

§ 195.402 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies

(e) *Emergencies.* The manual required by paragraph (a) of this section must include procedures for the following to provide safety when an emergency condition occurs: . . .

(4) Taking necessary action, such as emergency shutdown or pressure reduction, to minimize the volume of hazardous liquid or carbon dioxide that is released from any section of a pipeline system in the event of a failure.

The Notice alleged that Respondent violated § 195.402(e)(4) by failing to follow its own written procedures for taking actions necessary to minimize the volume of hazardous liquid released from a pipeline in the event of a failure. Specifically, the Notice alleged that Respondent's control room personnel did not follow written company procedures for responding to indications of a leak on its WA (West Texas Area) pipeline, which was followed by a rupture on January 8, 2008, resulting in the release of approximately 31,322 barrels of crude oil.¹

A post-accident review of the product gain/loss information indicated a seam had leaked for over 24 hours before the pipeline ruptured. Data showed line losses of approximately 1,500 barrels over the 36-hour period preceding the rupture. The pattern of line losses was consistent with a leak. Respondent's procedures required controllers to track gains and losses in order to detect abnormal operating conditions, such as a leak. The increase in losses on Respondent's pipeline was not recognized by the company's control center as an indication of a leak, as required by the company's procedures.

Respondent also failed to diagnose the rupture and corresponding line pressure loss, as specified in its procedures. The control room misinterpreted the pressure loss as a result of a shut-down of another station and attempted to continue to re-pack the ruptured pipeline for over five hours, greatly contributing to the volume of the release. Other information, such as line pressure readings, pump shutdowns, system loss volumes, and alarm data were also available to the control room at the time of the accident and would have reinforced indications of a potential leak.

In its Response, ConocoPhillips indicated that it "will not contest the violation alleged," but also that it "does not admit to any liability concerning this matter or admit to any violation."² Accordingly, upon consideration of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.402(e)(4) by failing to follow its own procedures for taking necessary actions to minimize the volume of hazardous liquid that was released from its pipeline as a result of a failure.

¹ Pipeline Safety Violation Report, March 30, 2009, Exhibit A: ConocoPhillips Operations Manual, Procedure AOC-0002, "Abnormal Operating Conditions Pressure-Flow Deviations," Revision-02, Revised Date-November 16, 2006.

² Response at 3.

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 an administrative 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.

In determining the amount of the civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; the Respondent's ability to pay the penalty and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require.

The Notice proposed a total civil penalty of \$200,000 for violation of § 195.402(e)(4). Based on the evidence in this case, I found that Respondent violated § 195.402(e)(4) by failing to follow its own procedures for taking necessary actions to minimize the volume of hazardous liquid released from a pipeline failure. The violation resulted in the release of approximately 31,322 barrels of crude oil near Denver City, Texas, presenting a significant safety risk to the public and the environment. Therefore, I find that the nature, circumstances, and gravity of this violation, including the adverse impact on the environment, justify the proposed civil penalty amount.

Respondent is responsible for compliance with the pipeline safety regulations as the operator of the WA pipeline and is therefore the culpable party, absent some showing that the responsibility for the violations rests with another entity. There was no such showing in this case. With regard to the company's history of prior offenses, there is evidence in the record that Respondent has been the subject of at least six pipeline safety enforcement cases in the 4-year period prior to issuance of the Notice. These prior offenses involved civil penalties and compliance terms for violations of the pipeline safety regulations. Respondent did not provide any evidence suggesting the company is unable to pay the proposed civil penalty. Therefore, I find these criteria further justify the proposed civil penalty amount.

Respondent requested a reduction to the penalty because the company had "taken significant steps to address the concerns addressed in this NOPV and remediate this situation."³ Respondent did not explain precisely what steps it had taken, but generally referred to the actions it had either taken to remedy the violation found in this case or in response to the Corrective Action Order (CAO) issued by PHMSA on January 30, 2008.⁴

³ Response at 3.

⁴ The CAO was issued by PHMSA pursuant to 49 C.F.R. § 190.233 to address the hazardous condition resulting from the pipeline failure that occurred on January 8, 2008. CPF No. 4-2008-5002H.

Once a violation has been discovered, PHMSA expects any prudent and responsible operator to take necessary actions to remediate the violation. Such actions do not constitute grounds for reducing a penalty that is based upon an operator's failure to comply with the regulations prior to an inspection or, in this case, at the time of an emergency. Furthermore, most, if not all, of the remedial actions taken by Respondent in this case were required by the terms of the CAO. Therefore, I find that the company's post-accident actions do not warrant a reduction in the proposed penalty.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of **\$200,000** for the violation of 49 C.F.R. § 195.402(e)(4).

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-341), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 269039, Oklahoma City, OK 73125; (405) 954-8893.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a Petition for Reconsideration of this Final Order. If submitting a petition, the petition must be sent to: Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, and a copy sent to the Chief Counsel, PHMSA, at the same address. The petition must be received within 20 days of service, but may be considered timely if received within 20 days of Respondent's receipt of this Final Order. The petition must contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.215. The filing of the petition automatically stays the payment of any civil penalty assessed. 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 upon service in accordance with 49 C.F.R. § 190.5.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued