

APR 24 2012

Mr. J.L. Davis
President
West Texas Gas, Inc.
211 N. Colorado
Midland, TX 79701

Re: CPF No. 4-2011-1007

Dear Mr. Davis:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation, assesses a civil penalty of \$27,500, and specifies actions that need to be taken by West Texas Gas, Inc. to comply with the pipeline safety regulations. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated September 22, 2011. When the terms of the compliance order have been completed, as determined by the Director, Southwest Region, this enforcement action will be closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided under 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, OPS
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS

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 |) | |
| |) | |
| West Texas Gas, Inc., |) | CPF No. 4-2011-1007 |
| |) | |
| Respondent. |) | |
| |) | |

FINAL ORDER

From June 21-22 and August 30 - September 2, 2010, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted on-site pipeline safety inspections of the facilities and records of West Texas Gas, Inc. (West Texas or Respondent) in Amarillo, Texas. Respondent’s system is composed of 532 miles of interstate and 1,058 miles of intrastate natural gas pipelines in Texas and the Oklahoma Panhandle region.¹

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated August 22, 2011, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that West Texas violated 49 C.F.R. §192.935 and proposed assessing a civil penalty of \$27,500 for the alleged violation. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violation.

West Texas responded to the Notice by letter dated September 22, 2011. Respondent did not contest the Notice. However, it stated that while West Texas had paid the civil penalty, in doing so it did not admit guilt or waive any of its rights or defenses to the alleged violation.

FINDING OF VIOLATION

In its Response, West Texas did not contest the allegation in the Notice that it violated 49 C.F.R. Part 192.935, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.935, which states in relevant part:

§ 192.935 What additional preventive and mitigative measures must an operator take?

(a) *General requirements.* An operator must take additional

¹ Pipeline Safety Violation Report (PSVR), at 1, 8/22/2011.

measures beyond those already required by Part 192 to prevent a pipeline failure and to mitigate the consequences of a pipeline failure in a high consequence area. An operator must base the additional measures on the threats the operator has identified to each pipeline segment. (*See* §192.917) An operator must conduct, in accordance with one of the risk assessment approaches in ASME/ANSI B31.8S (incorporated by reference, *see* §192.7), section 5, a risk analysis of its pipeline to identify additional measures to protect the high consequence area and enhance public safety. Such additional measures include, but are not limited to, installing Automatic Shut-off Valves or Remote Control Valves, installing computerized monitoring and leak detection systems, replacing pipe segments with pipe of heavier wall thickness, providing additional training to personnel on response procedures, conducting drills with local emergency responders and implementing additional inspection and maintenance programs.

The Notice alleged that Respondent violated 49 C.F.R. § 192.935(a) by failing to conduct a risk analysis of its pipeline, in accordance with one of the risk assessment approaches in ASME/ANSI B31.8S, to identify additional measures to protect high consequence areas and enhance public safety. Specifically, the Notice alleged that West Texas was unable to identify any measures or actions that it took to satisfy Article 10, “Identification of Preventative and Mitigation Measures” of its integrity management plan.

In order to comply with the requirements outlined in 49 C.F.R. § 192.935(a), Respondent’s Integrity Management Program requires completion of Appendix E, “Preventative and Mitigative Measures Evaluation Form,” which documents the decision process and implementation schedule for certain preventative and mitigative (P&M) measures. At the time of inspection, West Texas was unable to either identify completed P&M measures or produce any completed Appendix E forms indicating compliance with its own procedure.

Respondent did not contest this allegation of violation.

Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.935(a) by failing to conduct a risk analysis of its pipeline to identify additional measures to protect high consequence areas and enhance public safety, as required by Appendix E and its integrity management plan.

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

ASSESSMENT OF PENALTY

Item 1: The Notice proposed a civil penalty of \$27,500 for Respondent’s violation of 49 C.F.R. § 192.935(a), for failing to conduct a risk analysis of its pipeline, as required by its integrity management program. West Texas did not contest the allegation of violation. This regulation requires an operator to take P&M measures in order to reduce the potential consequences arising from pipeline failures in high consequence areas. High consequence areas

are positively correlated with risk of accident or injury to human life, the environment, and property. It is therefore critical that pipeline operators take measures designed to prevent and reduce the consequences of such failures. In this case, West Texas failed to provide any evidence that it complied with its own procedure. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$27,500, already paid by Respondent for violation of 49 C.F.R. § 192.935(a).

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 1 in the Notice for violation of 49 C.F.R. § 192.935(a). Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or who owns or operates a 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:

1. With respect to the violation of § 192.935(a) (**Item 1**), Respondent must perform and document additional P&M measures that have not been identified, documented, implemented or scheduled for implementation by West Texas within 90 days of receipt of the Final Order.
2. It is requested that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to R.M. Seeley, Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.

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

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$100,000 for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

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