



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

Mr. Halbert Washburn
Co-President and CEO
BreitBurn Energy Corporation
515 S. Flower Street, Suite 4800
Los Angeles, CA 90071

Re.: CPF No. 56003

Dear Mr. Washburn:

Enclosed is a decision on the Petition for Reconsideration filed in the above-referenced case. The Associate Administrator for Pipeline Safety has decided to deny the petition. Your receipt of this decision constitutes proper service under 49 C.F.R. § 190.5. This case is now closed.

Sincerely,

Gwendolyn M. Hill
Office of Pipeline Safety
Compliance Registry

Enclosure

cc: Charles E. Williamson
Operations Manager, BreitBurn Energy Corporation

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

In the Matter of)
)

BreitBurn Energy Corporation,)
)

CPF No. 56003

Respondent.)
_____)

DECISION ON PETITION FOR RECONSIDERATION

On April 28, 1998, pursuant to 49 U.S.C. § 60112, the Associate Administrator for Pipeline Safety issued a Final Order. The Final Order established that Respondent committed the following three violations: (1) Respondent failed to submit an annual report pursuant to 49 C.F.R. § 191.17 for the calendar year 1994; (2) Respondent failed to test the pipeline's cathodic protection system at least once during the 1994 calendar year, as required by § 192.465; and (3) Respondent failed to electrically isolate its 4-inch pipe from a metallic casing or to take other measures to minimize the potential for corrosion of the pipeline inside the casing, as required by 49 C.F.R. § 192.467(c).

On May 14, 1998, Respondent filed a Petition for Reconsideration ("Petition") to formally request reconsideration of some of the findings in the Final Order. Specifically, Respondent contested Items (1) and (2) above, and provided the following arguments in its petition.

Item (1) 49 C.F.R. § 191.17 – Respondent wrote in its Petition that it had "completed and submitted the annual reports on U.S. Department of Transportation Forms RSPA 7100.2-1..." and that it maintains copies of "reports dating back to 1992 when OXY USA Inc. owned and operated this pipeline. As shown by this documentation, [Respondent] did submit all annual reports and therefore we were not in violation of this section." (Petition, p. 1).

Item (2) 49 C.F.R. § 192.465 -- Respondent offers two arguments with regard to this violation in its Petition. First, Respondent notes that the "Notice of Probable Violation, Warning Letter and Proposed Compliance Order" (NOPV) references the fact that at the time of the inspection "a number of test stations for determining the adequacy of the cathodic protection system were not accessible." Respondent answers this allegation by pointing out that it hired a third party cathodic protection specialist to confirm that the number of stations currently in use provide adequate cathodic protection for the pipeline system. Specifically, Respondent asserts that regardless of whether or not the test stations are accessible, the remaining test stations that are currently in use on the system provide adequate cathodic protection.

Second, Respondent asserts that the NOPV letter failed to mention Respondent's failure to test its cathodic protection system. "Because of this, [Respondent] did not address this matter in our previous correspondence." (Petition, p.2). In addition, Respondent enclosed reports from its Cathodic Protection Survey Reports to indicate that surveys were performed from 1992 through 1996. Respondent further asserts that these reports show that Respondent tested its cathodic protection system on an annual basis.

With regard to Item 1, it is undisputed that Respondent completed an annual report for its system on RSPA Form 7100.2-1 for the calendar year 1994. The issue for consideration is whether the report was submitted in a timely manner. The relevant regulation, 49 C.F.R. § 192.465, specifies that annual reports shall be submitted 'each year, not later than March 15, for the preceding calendar year.' Although it is true that Respondent submitted an annual report for the calendar year 1994, the report was submitted after the due date of March 15, 1995. The NOPV dated March 4, 1996 notes that at the time of the inspection by a representative of the Office of Pipeline Safety, Western Region on October 23-25, 1995, an annual report had not been submitted by Respondent. Therefore, the request for withdrawal of this violation is denied.

With regard to Item 2, the proposed compliance order in the NOPV required Respondent to "make all cathodic protection test stations accessible." In its response of March 22, 1996, Respondent did not indicate that it made all test stations accessible. Rather, it indicated that a third party cathodic protection specialist had reviewed its system and found that "the number of stations that are currently exposed are adequate to verify cathodic protection of [the system]..." (March 22, 1996 response letter, p. 1). A Final Order was subsequently issued, which found that the corrective measures taken by Respondent in response to Item 2 were adequate. Corrective action was not required in the Final Order because Respondent submitted documentation to show that the test stations were not needed. However, at the time that the violation was written, no documentation existed to explain that the test stations were not necessary.

It is OPS policy that all structures and appurtenances connected to the pipeline must be inspected in accordance with the applicable regulations. Test stations that are not properly referenced in the operations and maintenance manual and inspected, or that are not documented as noncritical, can be subject to enforcement action.

This decision on reconsideration is the final administrative action in this proceeding.

Stacey Gerard
Associate Administrator
for Pipeline Safety

Date Issued