



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

DEC 31 1999

Tom F. Wanzeck
Regional Transportation Manager
Rocky Mountain Business Unit
Conoco, Inc.
6855 South Havana Street, Suite 600
Englewood, Colorado 80112

Re: CPF No. 5-2000-5021

Dear Mr. Wanzeck :

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 \$25,000. 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,

Gwendolyn M. Hill
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

In the Matter of)
)
Conoco, Inc.,)
)
Respondent.)
_____)

CPF No. 5-2000-5021

FINAL ORDER

Pursuant to 49 U.S.C. § 60117, a representative of the Office of Pipeline Safety (OPS) conducted an investigation of the November 14, 2000 incident involving Respondent's pipeline in Rock Springs, Wyoming. As a result of the investigation, the Director, Western Region, OPS, issued to Respondent, by letter dated December 14, 2000, 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 violated 49 C.F.R. § 195.202 and proposed assessing a civil penalty of \$25,000 for the alleged violation.

Respondent responded to the Notice by letter dated January 12, 2001 (Response). Respondent did not contest the allegations of violation but offered an explanation and provided information in mitigation of the proposed civil penalty. Respondent did not request a hearing and therefore, has waived its right to one.

FINDINGS OF VIOLATION

Respondent did not contest alleged violation of § 195.202 in the Notice. Section 195.202 requires each pipeline to be constructed in accordance with specifications or standards that are consistent with the requirements of Part 195. Under § 195.402, the operator is required to prepare and follow, for each pipeline system, a manual of written procedures. In this case, Respondent did not follow the written procedures that were in place. Accordingly, I find that Respondent violated 49 C.F.R. § 195.202 by failing to comply with the requirement in § 195.402.

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 a civil penalty not to exceed \$25,000 per violation for each day of the violation up to a maximum of \$500,000 for any related series of violations. In this case, the Notice proposed a civil penalty of \$25,000.

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.

Respondent states in its Response that the 8-inch line was struck by the contractor during right-of-way cleanup of the adjacent 12-inch line while the line was down for pressure testing. Respondent adds that false fill material had been placed over the existing 8-inch line during right-of-way clearing, and the markers/pin flags may have been damaged or covered up. Respondent further asserts, as a reason for mitigation of the penalty, that it took great effort prior to and during construction to maintain the safety of the pipeline. It had an inspection staff of 30 inspectors, two of which were right-of-way clearing and restoration inspectors. Respondent further states that there were unusual circumstances that led to the leak and that it has taken additional steps after the incident to insure compliance with safety procedures in the future.

In this case, the procedures for working within 10 feet of the existing pipeline were not adhered to. It is particularly disconcerting that Respondent states that it took such measures to ensure safety, and this incident still occurred. Respondent's inspectors should have taken greater care during the right-of-way clearing to ensure that the markers were in full view at all times. Respondent's lack of care in ensuring that its contractor followed the procedures resulted in damage to the pipeline and a subsequent release, which has significant safety implications for those working on the pipeline and for the general public. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$25,000.

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.** After completing the wire transfer, send a copy of the **electronic funds transfer receipt** to the **Office of the Chief Counsel (DCC-1)**, Research and Special Programs Administration, Room 8407, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590-0001.

Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-120), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25770, Oklahoma City, OK 73125; (405) 954-4719.

Failure to pay the \$25,000 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 an United States District Court.

Under 49 C.F.R. § 190.215, Respondent has a right to 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. All other terms of the order, including any required corrective action, shall remain in full effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order are effective upon receipt.



Stacey Gerard
Associate Administrator
for Pipeline Safety

DEC 31 2001

Date Issued

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