



US Department
of Transportation
**Research and
Special Programs
Administration**

400 Seventh St S W
Washington D C 20590

MAR - 4 2004

Mr. Bill Gray
Manager, Water-Gas-Wastewater Operations
City of Palo Alto
Palo Alto, CA 94303

03-04-04 A08:05 RCVD

RE: CPF No. 5-2003-0012

Dear Mr. Gray:

Enclosed is a Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation of pipeline safety standards. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

I acknowledge receipt of, and accept the wire transfer dated September 19, 2003, in the amount of \$ 9,000 as payment in full of the civil penalty. This case is now closed and no further enforcement action is contemplated with the respect to the matters involved in this case. Thank you for your cooperation in our joint effort to ensure pipeline safety.

Sincerely,

James Reynolds
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)
)
City of Palo Alto)
)
Respondent.)
_____)

CPF No. 5-2003-0012

FINAL ORDER

On April 2-5, 2002, pursuant to 49 U.S.C. § 60117, representatives of the California Public Utilities Commission, as agent for the Office of Pipeline Safety (OPS) conducted an on-site pipeline safety inspection of Respondent's facilities and records in Palo Alto, California. As a result of the inspection, the Director, Western Region, OPS, issued to Respondent, by letter dated July 23, 2003, 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. §§ 191 and 192 and proposed assessing a civil penalty of \$ 9,000 for the alleged violation.

FINDINGS OF VIOLATION

Respondent responded by letter dated September 10, 2003, but did not contest the alleged violation of 49 C.F.R. Part 191 and Part 192 in the Notice. Accordingly, I find that Respondent violated the following section Part 191 and Part 192, as more fully described in the Notice:

49 C.F.R. § 191.11 - failure to submit annual reports for calendar years 2000 and 2001.

49 C.F.R. § 192.13 - failure to follow procedures in the Operation and Maintenance Manual by failing to patrol pipelines at least four times each calendar year. Also, during 1999 and 2000, pipeline patrols were only conducted three times and in 2001, pipeline patrols were conducted twice.

49 C.F.R. § 192.749 - failure to produce vault maintenance records for the vault at Station No. 4.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to a 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.

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.

Accordingly, having reviewed the record and considered the assessment criteria, I assess a civil penalty of \$ 9,000, already paid by Respondent. The terms and conditions of this Final Order are effective upon receipt.



Stacey Gerard
Associate Administrator
for Pipeline Safety

MAR - 4 2004

Date Issued