

JUN 08 2009

Ms. Rebecca B. Roberts
President
Chevron Pipe Line Company
4800 Fournace Place
Bellaire, TX 77401

Re: CPF No. 5-2003-5032

Dear Ms. Roberts:

Enclosed is the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$15,000. It also finds that you have completed the actions specified in the Notice required to comply with the pipeline safety regulations, and that you have addressed the inadequacies in your procedures that were cited in the Notice of Amendment.

The penalty payment terms are set forth in the Final Order, and 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.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Chris Hoidal, Director, Western Region, PHMSA

CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7005 1160 0001 0046 9563]

**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 |) | |
| |) | |
| Chevron Pipe Line |) | CPF No. 5-2003-5032 |
| Company, |) | |
| |) | |
| Respondent. |) | |
| _____ |) | |

FINAL ORDER

From February 3 to 7 and March 3 to 7, 2003, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), and the State of Washington, acting as an interstate agent, and the State of Texas, acting as an intrastate agent, inspected the Integrity Management Plan (IMP) of the Chevron Pipe Line Company (CPLC or Respondent), the owner and operator of an extensive network of oil pipelines and facilities in the United States.

Following that inspection, the Director, Western Region, OPS (Director), sent to CPLC, by letter dated December 11, 2003, a Notice of Probable Violation, Proposed Civil Penalty and Compliance Order, and Notice of Amendment (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding CPLC in violation of 49 C.F.R. § 194.452, assessing it a civil penalty of \$15,000, and ordering it to take certain corrective actions. The Notice also proposed, in accordance with 49 C.F.R. § 190.237, that CPLC amend its IMP.

CPLC responded to the Notice by letter dated February 16, 2004 (Response).¹ It provided detailed information on each of the probable violations and requested that the proposed civil penalty be reduced from \$15,000 to \$5,000. The Director then sent CPLC a letter in reply, dated April 6, 2004 (Reply). He stated, among other things, that CPLC's Response did not adequately address several of the deficiencies cited in the Notice and that further amendment of its IMP procedures was still needed. Finally, in a supplemental response by letter dated May 10, 2004 (Supplemental Response), CPLC provided additional information on the matters raised in the Notice and the Reply.

¹ On December 23, 2003, the Director extended the 30-day deadline for the filing of CPLC's Response until February 17, 2004.

CPLC has not requested a hearing, thereby waiving that right and authorizing the entry of this Final Order.

FINDINGS OF VIOLATION

Item 4: The Notice alleged that CPLC violated 49 C.F.R. § 195.452(c)(1), which states:

§ 195.452 Pipeline integrity management in high consequence areas.

...

(c) *What must be in the baseline assessment plan?* (1) An operator must include each of the following elements in its written baseline assessment plan:

(i) The methods selected to assess the integrity of the line pipe. An operator must assess the integrity of the line pipe by any of the following methods. The methods an operator selects to assess low frequency electric resistance welded pipe or lap welded pipe susceptible to longitudinal seam failure must be capable of assessing seam integrity and of detecting corrosion and deformation anomalies.

The Notice alleged that CPLC’s baseline assessment plan (BAP) did not include an adequate method for assessing the integrity of its pipeline system. Specifically, it stated that the two devices CPLC used in performing that assessment, a Magnetic Flux Leakage (MFL) tool and a Geometry tool, would adequately detect the presence of corrosion and other deformation anomalies in line pipe of any type. However, it further stated that those tools would not be capable, either individually or in tandem, of adequately assessing the seam integrity of pre-1970 low frequency electric resistance welded (LFERW) line pipe. The Notice, therefore, concluded that CPLC had to either select another methodology for assessing the integrity of its pre-1970 LFERW pipe or provide an engineering analysis showing that the segments constructed with that pipe were not susceptible to seam failure. Respondent has not disputed any of these allegations. Accordingly, I find that, as alleged in Item 4 of the Notice, CPLC violated 49 C.F.R. § 195.452(c)(i) by failing to properly assess the integrity of its pre-1970 LFERW segments of line pipe.

Item 8: The Notice alleged that CPLC violated 49 C.F.R. § 195.452(b)(2), which states:

§ 195.452 Pipeline integrity management in high consequence areas.

...

(b) *What program and practices must operators use to manage pipeline integrity?* Each operator of a pipeline covered by this section must:

...

(2) Include in the program an identification of each pipeline or pipeline segment in the first column of the following table not later than the date in the second column:

| Pipeline | Date |
|------------------|-------------------------------------|
| Category 1 | December 31, 2001. |
| Category 2 | November 18, 2002. |
| Category 3 | Date the pipeline begins operation. |

Specifically, the Notice alleged that CPLC failed to identify in its IMP which segments of the Category 3 Bridgeport-Chico Line would or could affect a high consequence area (HCA) before placing that line in service. *See* 49 C.F.R. §§ 195.452(a) (defining the types of pipelines subject to HCA integrity management procedures), (a)(3) (defining Category 3 pipelines as those “constructed or converted after May 29, 2001”); *see also* 49 C.F.R. § 195.450 (defining high consequence area for purposes of § 195.452). Respondent does not dispute that allegation. Accordingly, I find that, as alleged in Item 8 of the Notice, CPLC violated 49 C.F.R. § 195.452(b)(2) by failing to identify in its IMP which segments of the Category 3 Bridgeport-Chico Line would or could affect an HCA before placing that line in service.

Item 11: The Notice alleged that CPLC violated 49 C.F.R. § 195.452(h)(4), which states, in relevant part:

§ 195.452 Pipeline integrity management in high consequence areas.

...

(h) What actions must an operator take to address integrity issues? . . .

(4) Special requirements for scheduling remediation--(i) Immediate repair conditions. An operator's evaluation and remediation schedule must provide for immediate repair conditions. To maintain safety, an operator must temporarily reduce the operating pressure or shut down the pipeline until the operator completes the repair of these conditions. An operator must calculate . . .

Specifically, the Notice alleged that, at the time of the OPS inspection, CPLC’s IMP did not provide a timeframe for temporarily reducing the operating pressure of a pipeline after discovering an immediate repair condition. The Notice then stated that, in the fall of 2002, more than 30 days elapsed between CPLC’s discovery of an immediate repair condition on the Salt Lake Crude System, Hanna to Salt Lake segment, and its temporary reduction of the operating pressure of that pipeline.

CPLC’s Response to these allegations included a copy of its immediate repair procedures, and those procedures, issued on December 18, 2003, include a timeframe for temporarily reducing the operating pressure of a pipeline after discovering an immediate repair condition. It did not, however, dispute the allegations regarding the operation of the Hanna to Salt Lake segment in the Fall of 2002.

I find CPLC’s Response unpersuasive. The only evidence offered by Respondent are IMP procedures issued a week after the Notice. That document does not rebut the allegation that the immediate procedures at the time of the OPS inspection failed to include the required timeframe. In addition, the allegation that Respondent did not timely reduce the operating pressure on the Hanna to Salt Lake segment following the discovery of an immediate repair condition in the Fall of 2002 remains undisputed.

Accordingly, I find that, as alleged in Item 11 of the Notice, CPLC violated 49 C.F.R. § 195.452(h)(4) by failing to have an IMP that provided a timeframe for temporarily reducing the operating pressure of a pipeline after discovering an immediate repair condition. I also find that, as alleged in Item 11 of the Notice, CPLC violated 49 C.F.R. § 195.452(h)(4) by failing to timely reduce the operating pressure on the Hanna to Salt Lake segment following the discovery of an immediate repair condition in the Fall of 2002.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

ASSESSMENT OF PENALTY

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: 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 \$15,000. That included a \$5,000 penalty for Item 8, Respondent's violation of 49 C.F.R. § 195.452(b)(2), and a \$10,000 penalty for Item 11, Respondent's violation of 49 C.F.R. § 195.452(h)(4).² CPLC argues that a reduction of the total civil penalty amount, from \$15,000 to \$5,000, is warranted based on the information and other evidence provided in its Response.

I do not find CPLC's argument persuasive. For instance, a \$5,000 civil penalty for Item 8 reflects the nature, circumstances, and gravity of CPLC's violation of 49 C.F.R. § 195.452(b)(2). Indeed, it commenced operations on the recently-constructed Bridgeport-Chico Line without considering the applicability of Subpart F's integrity management procedures, thereby creating an unjustifiable risk of a pipeline failure and of resulting harm to the public. CPLC also bears a high degree of culpability for that violation. It owns, or has an interest in, more than 12,000 miles of pipeline in the United States, making it one of the largest and, presumably, most knowledgeable operators in the country. Finally, CPLC has the ability to pay the penalty amount. It is a subsidiary of a company that generated \$214 billion in operating revenue in 2007, ensuring that the modest civil penalty assessed in this case will not have any adverse affect on its business operations.³ I, therefore, find that a \$5,000 civil penalty for Item 8 is justified by the assessment criteria.

The \$10,000 civil penalty for Item 11 is also warranted. The regulation at issue applies to the operation of a pipeline known to be in need of immediate repair, a circumstance that poses an increased risk of harm to the public. 49 C.F.R. § 195.452(h)(4). That magnifies the gravity of CPLC's violation. In addition, the circumstances surrounding that violation are quite troubling. According to the evidence of record, CPLC did not have a written immediate repair procedure for some period of time, and it continued to operate a pipeline in need of immediate repair, the Hanna to Salt Lake segment of the Salt Lake Crude System, for more than a month without reducing its operating pressure. These facts, when combined with the business and financial information mentioned above, more than support the proposed penalty amount. I, therefore, find that a \$10,000 civil penalty for Item 11 is justified by the assessment criteria.

² The Notice originally proposed a \$10,000 civil penalty for Item 14. However, in a March 12, 2004 letter, the Director informed CPLC that the former assessment was made in error, and that the \$10,000 civil penalty was actually being proposed for Item 11.

³ <http://www.chevron.com/documents/pdf/corporatefactsheet.pdf> (accessed January 5, 2009).

In sum, after carefully reviewing the entire record, considering Respondent's arguments, and analyzing the statutory assessment criteria, I find that CPLC has failed to present any factual or legal grounds that justify a reduction in the proposed civil penalty amount. Accordingly, I assess Respondent a total civil penalty of \$15,000.

PAYMENT OF PENALTY

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 25082, Oklahoma City, OK 73125; (405) 954-8893.

Failure to pay the \$15,000 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 a United States District Court.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 4 for Respondent's violation of 49 C.F.R. § 195.452(c)(1). Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. The Director has indicated that Respondent has taken the following actions specified in the proposed compliance order:

With regard to Item 4, in March 2003 Respondent identified the segments of its pipeline system that contained Pre-1970 LFREW pipe and undertook appropriate action to assess the integrity of that pipe.

Accordingly, since Respondent has achieved compliance with respect to this violation, the compliance terms are not included in this Order.

AMENDMENT OF PROCEDURES

The Notice alleged inadequacies in Respondent's IMP and proposed to require amendment of Respondent's procedures to comply with the requirements of 49 C.F.R. § 195.452. However, Respondent submitted copies of its amended procedures in its Response and Supplemental Response, and the Director has since reviewed those procedures. Accordingly, I find, based on the results of that review, that Respondent's original procedures as described in the Notice were inadequate to ensure safe operation of its pipeline system, but that Respondent has corrected the identified inadequacies. No need exists to issue an order directing amendment.

WARNING ITEMS

With respect to Items 1, 2, 3, 5, 9, 10, 12, 15B, 15C, 15D, and 16A, the Notice alleged probable violations of Part 195, but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 195.452(g)(3) (Item 1) — CPLC allegedly did not incorporate all available information, including local or field information, during the pipeline segment identification process, but rather relied solely on National Pipeline Mapping System data.

49 C.F.R. § 195.452(f)(1) (Item 2) — CPLC allegedly did not consider facility release volumes from all pipeline segments, pump stations, or breakout tanks in its IMP.

49 C.F.R. § 195.452(f)(1) (Item 5) — CPLC allegedly did not have a verifiable process for incorporating pipeline segments that could affect HCAs onto the so-called “Risk Screening Segments” of its BAP.

49 C.F.R. § 195.452(c)(I)(A) (Item 9) — CPLC allegedly did not include in its IMP requirements for establishing the accuracy of inline inspection (ILI) tool runs or adequate specifications and expectations for ILI vendors.

49 C.F.R. § 195.452(h)(1) (Item 10) — CPLC allegedly did not have a well-defined IMP procedure for integrating ILI results with other pipeline data.

49 C.F.R. § 195.452(h)(1) (Item 12) — CPLC allegedly did not include a procedure in its IMP for distributing a status report on 60-day and 180-day repair conditions to key personnel.

49 C.F.R. § 195.452(e)(1) (Item 15B) — CPLC allegedly did not follow its risk assessment process in evaluating the Salt Lake Products pipeline.

49 C.F.R. § 195.452(e)(1) (Item 15C) — CPLC allegedly assigned the regulatory impact cost a higher value than human impacts or environmental factors within its scenario evaluation risk dimensions.

49 C.F.R. § 195.452(e)(1) (Item 15D) — CPLC allegedly did not include an evaluation of risk for facilities in the risk assessment section of its IMP.

49 C.F.R. § 195.452(i)(1) (Item 16) — CPLC allegedly did not include in its IMP an appropriate time interval for performing an updated evaluation of its risk assessment and preventive and mitigative measures or a process for evaluating the efficacy and need for improvement in its leak detection systems.

CPLC presented information in its Response indicating that it had taken certain actions to address these warning items. Having considered that information, I find that probable violations of Part 195 had occurred as of the date of the inspection. CPLC is hereby advised to review and

correct such conditions. In the event OPS finds a violation of any of these items in a subsequent inspection, CPLC may be subject to future enforcement action.

RIGHT TO PETITION FOR RECONSIDERATION

Under 49 C.F.R. § 190.215, Respondent has a right to submit a 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. However 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 receipt.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued