



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety Administration**

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

SEP 13 2006

Mr. Rey Javier  
Vice President  
Brea Canyon Oil Company, Inc.  
23903 South Normandie  
Harbor City, California 90710

Re: **CPF No. 5-2004-0005**

Dear Mr. Javier:

Enclosed is the Final Order issued by the Acting Associate Administrator for Pipeline Safety in the above-referenced case. It withdraws two of the allegations of violation, makes a finding of violation, and assesses a civil penalty of \$4,000.00. It further finds that you have completed the actions specified in the Notice required to comply with the pipeline safety regulations with respect to the remaining violation. The penalty payment terms are set forth in the Final Order. When the civil penalty is paid, this enforcement action will be closed. Your receipt of the Final Order constitutes service under 49 C.F.R. § 190.5.

Sincerely,

James Reynolds  
Pipeline Compliance Registry  
PHMSA-Office of Pipeline Safety

Enclosure

cc: Mr. Chris Hoidal, P.E., Director, Western Region, PHMSA  
Mr. Timothy Burch, Environmental & Construction Technician, Brea Canyon Oil Company,  
Inc.

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

**DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION  
OFFICE OF PIPELINE SAFETY  
WASHINGTON, DC 20590**

**In the Matter of** )

**Brea Canyon Oil Company, Inc,** )

**Respondent** )

**CPF No. 5-2004-0005**

**FINAL ORDER**

On November 4 and 5, 2002, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration's (PHMSA's)<sup>1</sup> Office of Pipeline Safety conducted an on-site pipeline safety inspection of Respondent's pipeline facilities, manuals, and records in Los Angeles, California. As a result of the inspection, the Director, Western Region, issued to Respondent, by letter dated March 18, 2004, a Notice of Probable Violation, Proposed Civil Penalty, Proposed Compliance Order, (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had violated 49 C.F.R. Part 192, proposed assessing a civil penalty of \$28,000 for the alleged violations, and proposed ordering Respondent to take certain measures to correct the alleged violations. The Notice also warned Respondent to take appropriate corrective action on other cited items.

Respondent responded to the Notice by letter dated April 7, 2004 (Response). Respondent contested many of the allegations, offered information to explain the allegations, and requested that the proposed civil penalty be reduced. Respondent did not request a hearing, and therefore has waived its right to one.

**FINDING OF VIOLATION**

**(Contested)**

**Item 1** in the Notice alleged Respondent violated 49 C.F.R. § 192.463(a) by failing to have each cathodic protection system required by Subpart I, "Requirements for Corrosion Control," provide

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<sup>1</sup> Effective February 20, 2005, the Pipeline and Hazardous Materials Safety Administration (PHMSA) succeeded Research and Special Programs Administration as the agency responsible for regulating safety in pipeline transportation and hazardous materials transportation. See, section 108 of the Norman Y. Mineta Research and Special Programs Improvement Act (Public Law 108-426, 118 Stat. 2423-2429 (November 30, 2004)). See also, 70 Fed. Reg. 8299 (February 18, 2005) re delegating the pipeline safety authorities and functions to the PHMSA Administrator.

a level of cathodic protection that complies with one or more of the applicable criteria contained in Appendix D of Part 192. At the time of inspection, Respondent failed to provide an adequate level of cathodic protection on its pipelines for years 1999, 2000, and 2001. Respondent uses the criteria for cathodic protection of Appendix D, section I (A)(1). The locations, as charted in the Notice, did not have at least a negative cathodic pipe-to-soil potential of 850 mV and some were not adequate for two or more inspection cycles. The Response acknowledges the problem and cites its replacement and other upgrading efforts.

Accordingly, I find that Respondent violated 49 C.F.R. § 192.463(a) as alleged in the Notice. This finding of violation will be considered a prior offense in any subsequent action taken against Respondent.

### **WITHDRAWAL OF ALLEGATIONS**

**Item 4**, as more fully described in the Notice, alleged that Respondent had violated 49 C.F.R. § 192.706(a), by failing to conduct leakage surveys of transmission lines at the prescribed intervals. The subject jurisdictional gas gathering pipelines are transferring un-odorized gas from production sites to a dehydration plant. 49 C.F.R. § 192.706(a) requires Respondent to leak survey its pipeline twice a year. However, this system is under negative (suction) pressure and, therefore, a hole in the pipe would allow air in as opposed to allowing gas out. In this instance, the performance of a leak survey would be moot. Based on the information at hand, I am withdrawing this allegation of violation.

**Item 5**, as more fully described in the Notice, alleged that Respondent had violated 49 C.F.R. § 192.731 by failing to properly inspect and test its compressor station pressure relief valve (PRV) in accordance with 49 C.F.R. § § 192.739 and 192.743 at the time. Respondent has one pressure relief device (PRV) downstream from a compressor in its dehydration plant. Based on information from Respondent and senior engineers in the Western Region, it was determined that the compressor and the PRV are within the Respondent's plant property and not regulated by DOT. Therefore, I am withdrawing this allegation of violation based on the information at hand.

### **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.<sup>2</sup>

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.

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<sup>2</sup> The Pipeline Safety Improvement Act of 2002, Pub. L. No. 107-355, § 8(b)(1), 116 Stat. 2992, increased the civil penalty liability for violating a pipeline safety standard to \$100,000 per violation for each day of the violation up to a maximum of \$1,000,000 for any related series of violations.

The Notice proposed a total civil penalty of \$28,000.00 for three of the violations.

**Item 1** of the Notice proposed a civil penalty of \$9000.00 for violation of 49 C.F.R. § 192.463(a). Respondent violated 49 C.F.R. § 192.463(a) by failing to provide the applicable level of cathodic protection. Although Respondent failed to provide an adequate level of cathodic protection for the three years on its pipelines, Respondent appears to have expressed its willingness to achieve compliance with applicable regulations. Respondent has aggressively tried to and fixed its external corrosion problem. Respondent acknowledged the problem and requested that the proposed civil penalty be lowered. Based on the amount of effort and expense Respondent has incurred to remediate this deficiency, the penalty is reduced and I assess respondent a civil penalty of \$4,000.00 for violation of 49 C.F.R. § 192.463(a).

**Item 4** of the Notice proposed a civil penalty of \$5,000.00. Since I have withdrawn the allegation of violation of 49 C.F.R. § 192.706(a) regarding leak surveys, I withdraw the associated penalty of \$5,000.00.

**Item 5** of the Notice proposed a civil penalty of \$14,000.00. Since I have withdrawn the allegation of violation 49 C.F.R. § 192.731 for failing to inspect and test in accordance with 49 C.F.R. § 192.739 and 192.743 at the time, I withdraw the associated penalty of \$14,000.00.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$4,000.00 for violation of 49 C.F.R. § 192.463(a). Respondent has the ability to pay this penalty without adversely affecting its ability to continue in business.

Payment of the civil penalty must be made within 20 days of service. Payment may be made by sending a certified check or money order (containing the CPF Number for this case) payable to "U.S. Department of Transportation" to the Federal Aviation Administration, Mike Monroney Aeronautical Center, Financial Operations Division (AMZ-300), P.O. Box 25082, Oklahoma City, OK 73125.

Federal regulations (49 C.F.R. § 89.21(b)(3)) also permit this payment to 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-300), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125; (405) 954-8893.

Failure to pay the \$4,000.00 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 1 in the Notice for violation of 49 C.F.R. § 192.463(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. The Director, Western Region, PHMSA has indicated that Respondent has aggressively tried to and fixed its external corrosion problem by replacing anode wells and redirecting the different isolation points between its rectifiers as well as taking other corrective actions. Accordingly, since compliance has been achieved with respect to this violation, the compliance terms are not included in this Order.

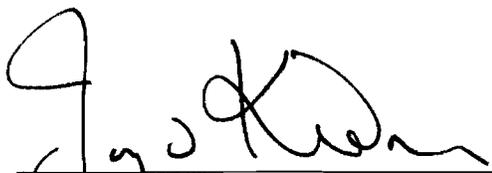
### WARNING ITEMS

The Notice did not propose a civil penalty or corrective action for Items 2 and 3 in the Notice but warned Respondent that it should take appropriate corrective action to correct the items.

**Item 2**, as more fully described in the Notice, was for failing to take action in compliance with 49 C.F.R. § 192.465(a) with respect to monitoring external corrosion. In its Response, Respondent interpreted that it only had to survey 10% of its pipeline per the exception in 49 C.F.R. § 192.465(a). 49 C.F.R. § 192.465(a) applies to all regulated lines but it does give an exception for separately protected short sections of mains or transmission pipelines, not in excess of 100 feet in length. This exception does not apply to Respondent's pipelines subject to the Notice. Therefore, this is considered to be a warning item. Respondent is warned that if it does not take appropriate action to correct the citation, enforcement action will be taken if a subsequent inspection reveals a violation.

**Item 3**, as more fully described in the Notice, was a warning with respect to 49 C.F.R. § 192.467 (a-d) External corrosion control: Electrical isolation. Respondent presented information in its Response showing that it has taken action towards addressing the cited item.

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 on receipt.

  
 Theodore E. Willke  
 Acting Associate Administrator  
 for Pipeline Safety

SEP 13 2006

Date Issued