



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

APR - 6 2005

Mr. Tony J. Finneman
Executive Vice President
Williston Basin Interstate Pipeline Company
P.O. Box 5601
Bismarck, ND 58506-5601

RE: CPF No. 5-2004-0007

Dear Mr. Finneman:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$8,000, makes a finding of inadequate procedures and requires amendment of certain operating and maintenance procedures. The Final Order also specifies actions to be taken to comply with the pipeline safety regulations and revision of certain operating and maintenance procedures. The penalty payment terms are set forth in the Final Order. When the civil penalty is paid and the terms of the compliance order and amendment of procedures are completed, as determined by the Director, Western Region, this enforcement action will be closed. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Sincerely,

for James Reynolds
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

cc: Chris Hoidal, Region Director
Western Region, OPS

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

<u>In the Matter of</u>)	
)	
Williston Basin Interstate Pipeline Company,)	CPF No. 5-2004-0007
)	
Respondent.)	

FINAL ORDER

On October 20-23, 2003 and December 8-11, 2003, pursuant to 49 U.S.C. § 60117, representatives of the Office of Pipeline Safety (OPS), Western Region, conducted an on-site pipeline safety inspection of Respondent's Baker District and Glendive District facilities and records in Montana. As a result of the inspection, the Director, Western Region, OPS, issued to Respondent, by letter dated August 31, 2004, a Notice of Probable Violation, Proposed Civil Penalty, Proposed Compliance Order, and Notice of Amendment (Notice)¹. 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 \$8,000 for the alleged violations and proposed that Respondent take certain measures to correct the alleged violations. The Notice also proposed, in accordance with 49 C.F.R. § 190.237, that Respondent amend its procedures for Operations, Maintenance, and Emergencies.

Respondent responded to the Notice by letter dated, September 27, 2004 (Response). Respondent did not contest the allegations of violation but offered an explanation and provided information concerning the corrective actions it has taken. Respondent did not request a hearing, and therefore has waived its right to one.

FINDINGS OF VIOLATION

(Uncontested)

In its Response, Respondent did not contest the alleged violations in the Notice. Accordingly, I find that Respondent violated the following sections of 49 C.F.R. Part 192, as more fully described in the Notice:

¹This case, however, is no longer before RSPA for decision. Effective February 20, 2005, the Pipeline and Hazardous Materials Safety Administration (PHMSA) was created to further the highest degree of 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 functions to the Administrator, PHMSA.

49 C.F.R. § 192.161(a) -- failing to properly anchor or support the meter set at the Fairview city gate, as the gate was not fastened to any supports and was resting on bricks. In addition, the meter set support at the Richey border station was unstable and the bypass piping at both the Richey and Wolf Point border stations was resting directly on the ground and not adequately supported;

49 C.F.R. § 192.463 -- failing to maintain a record in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist, as a determination could not be made how voltage (IR) drops other than those across the structure electrolyte boundary were being considered for valid interpretation of the voltage measurement. Respondent's cathodic protection monitoring records also lacked sufficient detail to determine the adequacy of the external corrosion control measures;

49 C.F.R. § 192.731(a) -- failing to test and inspect various pressure relief valves at the Vida Station once each calendar year not to exceed 15 months and failure to operate the valves periodically to determine that they open at the correct set pressure;

49 C.F.R. § 192.739(a) - (d)-- failing to test and inspect, once each calendar year not exceeding 15 months, the regulators that reduce transmission line pressure for the controller/instrument gas system service line and the private residence service line at the Hathaway Station. Respondent also failed to test and inspect the Unit 7 shutdown panel in the Baker compressor station during 2002;

49 C.F.R. § 192.605 (b)-- failing to have adequate procedures: 1) to specify at what interval atmospheric corrosion monitoring must occurring, 2) to provide instructions for taking appropriate course of actions concerning changes in class location, leakage history, corrosion, substantial changes in CP requirements, and other unusual operating and maintenance conditions, 3) to instruct the operator what to do if a segment of pipeline is determined to be in unsatisfactory condition but no immediate hazard exists, 4) to include remedial actions to be taken should a segment of pipeline become unsafe, and 5) to direct personnel as to which records must be maintained and for what period of time those records shall be retained, as required by 49 C.F.R. § 192.613;

49 C.F.R. § 192.615(a) -- failing to have adequate procedures to provide for notification of appropriate fire, police, and other public officials of gas pipeline emergencies. Respondent's procedures also failed to include direction for coordinating both the planned and actual responses during an emergency with the above groups;

49 C.F.R. § 192.615(b) -- failing to have adequate procedures to direct responsible personnel to obtain emergency training and to identify the frequency in which emergency training will be given.

These findings of violation will be considered prior offenses 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 \$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.

The Notice proposed a total civil penalty of \$8,000 for violation of 49 C.F.R. §§ 192.731 and 192.739.

The Notice proposed a civil penalty of \$6,000 for **Item 4**, as Respondent failed to test and inspect various pressure relief valves at the Vida Station once each calendar year, not to exceed 15 months. Respondent also failed to operate the valves periodically to determine that the valves open at the correct set pressure. Respondent did not contest the allegation. In its response, Respondent acknowledged that the pressure relief valves were not tested and inspected at the required interval due to oversight by Respondent's personnel. Documentation is essential not only to show that the performance testing and inspection was conducted, but to show that the pressure relief valves are functioning properly. Without this history, an operator increases the risk of harm to the public. The Vida Station is a remotely located facility. If this station were to go off line it could impact downstream customers and create a public safety concern during the harsh winter months. The Respondent has not shown any circumstance that would have prevented or justified its failure to test and inspect various pressure relief valves once each calendar year not to exceed 15 months. Accordingly, having reviewed the record and considered the assessment criteria, I assessed Respondent a civil penalty of \$6,000.

The Notice proposed a civil penalty of \$2,000 for **Item 5b**, as Respondent failed to test and inspect, once each calendar year not exceeding 15 months, the regulators that reduce transmission line pressure for the controller/instrument gas system service line and the private residence service line at the Hathaway Station. Respondent also failed to test and inspect the Unit 7 shutdown panel in the Baker compressor station during 2002. Respondent did not contest the allegation. In fact, Respondent acknowledged that the inspection and testing of the Unit #7 shutdown panel was not conducted at the required interval. Documentation is essential not only to show that the performance testing and inspection was conducted, but to show that the Unit #7 shutdown panel is functioning properly. Without this history, an operator increases the risk of harm to its personnel and the public.

If the service line were to receive high pressure gas, a release could result in death or injury. The Respondent has not shown any circumstance that would have prevented or justified its failure to test and inspect at the required interval. Accordingly, having reviewed the record and considered the assessment criteria, I assessed Respondent a civil penalty of \$2,000.

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-120), 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-120), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125; (405) 954-8893.

Failure to pay the \$8,000 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 Items 1, 2, and 5a, in the Notice for violations of 49 C.F.R. §§ 192.161(a), 192.463(a), and 192.739.

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. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations. Respondent must -

1. With regards to Item 1 of the Notice, provide adequate support to the meter sets and exposed piping at the Fairview city gate and the Richey and Wolf Point border stations.
2. Inspect all other city gates and border stations to ensure there is adequate support to all meter sets and exposed piping. Where support deficiencies are found, provide adequate support.
3. Establish and implement a method of recording cathodic protection (CP) survey measurements that will indicate the criteria used to determine if measurements are adequate. The record must have sufficient information to determine if individual measurements taken meet required criteria.

4. Complete a CP survey that takes voltage drops (IR drops) into account and that indicates the criteria used.
5. With regards to Item 5a of the Notice, inspect and test those regulators at the Hathaway station that reduce line pressures for the instrument/control gas service line and the private residence service line.
6. Maintain documentation of the costs associated with completing each item in this compliance order and submit the total to the Director, OPS, Western Region, within 60 days of receipt of the Final Order.
7. Within 60 days of receipt of the Final Order, submit documentation and evidence of the completion of all actions in this compliance order to the Director, OPS, Western Region, Pipeline and Hazardous Materials Safety Administration, 12300 West Dakota Avenue, Suite 110, Lakewood, Colorado 80228.

The Director, OPS, Western Region may grant an extension of time for compliance with any of the terms of this order for good cause. A request for an extension must be in writing.

AMENDMENT OF PROCEDURES

The Notice alleged inadequacies in Respondent's Operations, Maintenance and Emergencies Manual and proposed to require amendment of Respondent's procedures to comply with the requirements of 49 C.F.R. § 192.605. Respondent did not contest the proposed Notice of Amendment. Accordingly, I find that Respondent's procedures are inadequate to ensure safe operation of its pipeline system. Pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. § 190.237, Respondent is ordered to make the following revisions to its procedures. Respondent must -

1. Amend procedures to specify at what interval atmospheric corrosion monitoring must occur.
2. Amend procedures to include instructions for taking appropriate actions concerning changes in class location, failures, leakage history, corrosion, substantial changes in CP requirements, and other unusual operating and maintenance conditions.
3. Amend procedures to instruct personnel what to do if a segment of pipeline is determined to be in unsatisfactory condition but no immediate hazard exists.
4. Amend procedures to include remedial actions to be taken should a segment of pipeline become unsafe.
5. Amend procedures to direct personnel as to which records must be maintained and for what period of time those records shall be retained.

- 6. Amend procedures to adequately provide for notification of appropriate fire, police, and other public officials of gas pipeline emergencies. Additionally, the procedures must include sufficient directions for coordinating both the planned and actual responses during an emergency with fire, police, and other public officials.
- 7. Amend procedures to direct responsible personnel to provide emergency training. Additionally, the procedures must include the frequency in which emergency training will be given.
- 8. Submit the amended procedures to the Regional Director, Western Region, OPS within 30 days following receipt of this Order.

The Regional Director may extend the period for complying with any of the required items if the Respondent requests an extension and adequately justifies the reasons for the extension.

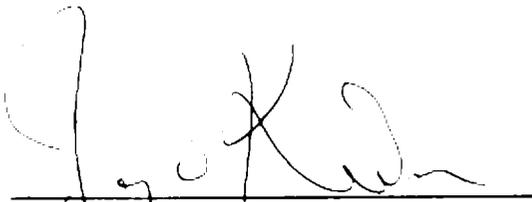
Failure to comply with this Amendment may result in the assessment of civil penalties of up to \$100,000 per violation per day, or in the referral of the case for judicial enforcement.

WARNING ITEMS

The Notice did not propose a civil penalty or corrective action for **Item 3** in the Notice; therefore, these are considered warning items. Respondent is warned that if it does not take appropriate action to correct these items, enforcement action will be taken if a subsequent inspection reveals a violation.

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. All other terms of the order, including any required corrective action and amendment of procedures, remain in full effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order are effective on receipt.

Failure to comply with this Final Order may result in the assessment of civil penalties of up to \$100,000 per violation per day, or in the referral of the case for judicial enforcement.



Stacey Gerard
Associate Administrator
for Pipeline Safety

APR - 6 2005

Date Issued

for