

NOV 16 2009

Ms. Meg A. Yaege
President
ConocoPhillips Pipeline Company
600 North Dairy Ashford, TA 2010
Houston, TX 77079

Re: CPF No. 5-2006-5017

Dear Ms. Yaege:

Enclosed is the Final Order issued in the above-referenced case. It withdraws two of the allegations of probable violation, makes findings of violation, and finds that the ConocoPhillips Pipeline Company has completed the actions required to comply with the pipeline safety regulations. This case is now closed. 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: Chris Hoidal, Director, Western Region, PHMSA/OPS

CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7005 0390 0005 6162 5104]

**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) | |
|) | |
| ConocoPhillips Pipeline Company,) | CPF No. 5-2006-5017 |
|) | |
| Respondent.) | |
| _____) | |

FINAL ORDER

Between September 19-30, 2005, and October 17-28, 2005, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities of ConocoPhillips Pipeline Company (CPPL or Respondent) at its Glacier and Yellowstone pipeline facilities in Montana. PHMSA inspectors also reviewed the records located in Billings, Cutbank, Helena, and Missoula, Montana and Spokane, Washington. CPPL owns and operates the Glacier Pipeline which runs from the Canadian border to Billings, Montana and the Yellowstone Pipeline which is located between Billings, Montana and the Idaho/Washington border. CPPL is a wholly-owned subsidiary of ConocoPhillips. CPPL operates more than 11,000 miles of pipelines and more than 60 storage terminals in the United States.

As a result of the inspection, the Director, Western Region, OPS (Director), issued to CPPL, by letter dated March 23, 2006, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that CPPL had committed violations of 49 C.F.R. Part 195 and proposed certain corrective measures. The Notice also warned the company to take appropriate corrective action for additional probable violations of Part 195 or be subject to future enforcement action.

CPPL responded to the Notice by letters dated April 24, 2006, May 5, 2006, and May 12, 2006 (collectively, Response). CPPL contested two of the alleged violations and described certain corrective actions it planned to implement. Respondent did not request a hearing and therefore waived its right to one.

FINDINGS OF VIOLATION

Item 3: The Notice alleged that CPPL violated 49 C.F.R. § 195.404, which states:

§ 195.404 Maps and records.

(a) Each operator shall maintain current maps and records of its pipeline systems that include at least the following information:

(1) Location and identification of the following pipeline facilities:

(i) Breakout tanks;

(ii) Pump stations;

(iii) Scraper and sphere facilities;

(iv) Pipeline valves;

(v) Facilities to which § 195.402(c)(9) applies;

(vi) Rights-of-way; and

(vii) Safety devices to which § 195.428 applies.

(2) All crossings of public roads, railroads, rivers, buried utilities, and foreign pipelines.

(3) The maximum operating pressure of each pipeline.

(4) The diameter, grade, type and nominal wall thickness of all pipe....

The Notice alleged that CPPL violated § 195.404 by failing to keep its pipeline alignment sheets and strip maps current. During the audit, the inspector discovered handwritten notes on an alignment sheet for the Glacier Pipeline reflecting a pipeline replacement from 2744+52 to station 2094+19 that occurred in 1992. In its Response, CPPL stated the mapping department was in the process of revising the alignment sheets at the time of the PHMSA inspection and therefore the inspector was shown the redline versions. After the inspection, CPPL finalized the alignment sheets and provided them to PHMSA by letter dated May 5, 2006. Accordingly, upon consideration of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.404 by failing to maintain current maps and records of its pipeline systems.

Item 5: The Notice alleged that CPPL violated 49 C.F.R. § 195.442(c)(1), which states:

§ 195.442 Damage Prevention Program.

(a) Except as provided in paragraph (d) of this section, each operator of a buried pipeline must carry out, in accordance with this section, a written program to prevent damage to that pipeline from excavation activities....

(c) The damage prevention program required by paragraph (a) of this section must, at a minimum:

(1) Include the identity, on a current basis, of persons who normally engage in excavation activities in the area in which the pipeline is located....

The Notice alleged that CPPL violated § 195.442(c)(1) by failing to keep a current list of individuals involved in excavation activities near the Yellowstone Pipeline Missoula area. In its Response, CPPL acknowledged that it was in the process of implementing its excavation awareness program at the time of the inspection. CPPL has since provided OPS with a list of excavators whom were contacted by CPPL by a mass mailing during the 4th quarter 2005. Upon

consideration of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.442(c)(1) by failing to have a complete damage prevention program in effect at the time of the inspection.

Item 6: The Notice alleged that CPPL violated 49 C.F.R. § 195.575, which states:

§ 195.575 Which facilities must I electrically isolate and what inspections, tests, and safeguards are required?

(a) You must electrically isolate each buried or submerged pipeline from other metallic structures, unless you electrically interconnect and cathodically protect the pipeline and the other structures as a single unit....

The Notice alleged that CPPL violated § 195.575 by failing to electrically isolate each buried or submerged pipeline from other metallic structures. Cathodic protection monitoring readings on the Missoula Montana Rail Link (MRL) spur line appeared to indicate that this line was not isolated from MRL's rail yard facilities. In its Response, CPPL stated that it investigated and repaired this issue the week after the PHMSA inspection. Accordingly, upon consideration of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.575 by failing to electrically isolate each buried pipeline from metallic structures.

Item 7: The Notice alleged that CPPL violated 49 C.F.R. § 195.577, which states:

§ 195.577 What must I do to alleviate interference currents?

(a) For pipelines exposed to stray currents, you must have a program to identify, test for, and minimize the detrimental effects of such currents....

The Notice alleged that CPPL violated § 195.577 by failing to investigate and minimize stray currents. Specifically, CPPL's cathodic protection records indicated interference on the Helena to Great Falls pipeline between test stations located at 7th Avenue (MP 79.2) and 3rd Avenue North (MP 79.3). CPPL was required to determine whether current from the adjacent Sinclair Gas station's underground tank cathodic protection system was creating a detrimental effect on the Great Falls pipeline. After the inspection, CPPL acknowledged the problem and installed two conduit pipes and test stations as well as two anodes. CPPL completed this corrective action during the week of April 17, 2006, and stated that it will continue to monitor cathodic protection levels in this area to ensure that stray currents do not detrimentally affect the system. Accordingly, upon consideration of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.577(a) by failing to identify and minimize the detrimental effects of stray currents.

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

WITHDRAWAL OF PROBABLE VIOLATIONS

Item 1 of the Notice alleged that CPPL violated 49 C.F.R. § 195.52, by failing to file a telephonic notice of the release of crude oil which occurred on the Glacier Pipeline in Laurel,

Montana. This type of telephonic notice is required “at the earliest practicable moment following discovery of a release of the hazardous liquids or carbon dioxide transported resulting in an event described in § 195.50...”¹ These trigger events include any failure that caused estimated property damage exceeding \$50,000.²

However, CPPL maintained that it was not required to give telephonic notice since the estimated costs associated with the crude oil spill did not exceed the \$50,000 threshold. CPPL clarified in its Response that the estimated cost of the incident did not exceed \$50,000. In fact, according to CPPL, the actual costs associated with the crude oil spill amounted to \$41,500. CPPL incurred an additional \$17,000 in clean up efforts associated with an area contaminated by diesel fuel from the adjacent truck repair shop. CPPL stated that it had volunteered to clean up this area upon discovery of it after the crude oil release. Upon consideration of the evidence, I find that the record does not contain a sufficient basis for this probable violation. Therefore, this item is withdrawn.

Item 2 of the Notice alleged that CPPL violated 49 C.F.R. § 195.54(b), by failing to file a supplemental accident report within thirty days reflecting the additional costs associated with the Glacier Pipeline crude oil spill. Operators are required to file accident reports for any reportable accident under the parameters set forth in § 195.50. An operator must also file a supplemental report within thirty days of receiving any changes to the information initially reported. In its Response, CPPL confirmed that it filed the initial report on January 21, 2005, within 30 days of the incident. CPPL stated in its Response that it neglected to file the supplemental report at the time of the accident since the additional costs were unrelated to the crude oil spill.³ Upon consideration of the evidence, I find that the record does not contain a sufficient basis for this probable violation. Therefore, this item is withdrawn.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 3, 5, 6, and 7 in the Notice. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquid 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 CPPL took the following actions in response to the proposed Compliance Order:

1. CPPL updated the alignment sheets for the Glacier pipeline system and the company procedure for keeping maps current. CPPL provided documentation of these actions to the Director, Western Region.
2. CPPL submitted a current list of individuals who routinely excavate in the Missoula area.

¹ 49 C.F.R. § 195.52(a).

² *Id.*

³ Respondent filed a Supplemental 7000-1 report on March 30, 2006.

3. Respondent provided evidence that it had electrically isolated the MRL spur line from all other MRL rail yard facilities.
4. CPPL provided documentation that it had completed a stray current study and installed new test stations and magnesium anodes to drain off stray currents. Further, CPPL provided evidence that the existing stray currents have been mitigated.

I find that these actions comply with the requirements of the Proposed Compliance Order and therefore do not need to be included in this Final Order.

WARNING ITEMS

With respect to Items 4 and 8, 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. § 195.440 (Notice Item 4) — CPPL’s alleged failure to establish a continuing educational program to enable the public, appropriate government organizations, and persons engaged in excavation-related activities to recognize a hazardous liquid or a carbon dioxide pipeline emergency; and

49 C.F.R. § 195.583 (Notice Item 8) — CPPL’s alleged failure to provide protection against atmospheric corrosion for Tank 1008 at the Billings Refinery.

Having considered all of the evidence in the record, I find, pursuant to 49 C.F.R. § 190.205, that the probable violations listed in Items 4 and 8 occurred as of the date of the inspection. CPPL submitted additional information after the inspection indicating that it had conducted a series of mailings to stakeholders as part of its educational program and repainted the chime area on tank 1008. In the event that OPS finds a violation for these items in a subsequent inspection, CPPL may be subject to future enforcement action.

The terms and conditions of this Final Order shall be effective upon receipt.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued