

APR 22 2010

Mr. Robert P. Carone
President
Pacific Operators Offshore LLC
1145 Eugenia Pl., Suite 200
Carpinteria, CA 93013

Re: CPF No. 5-2006-7001

Dear Mr. Carone:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$10,000, and specifies actions that need to be taken by Pacific Operators Offshore LLC to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the compliance order completed, as determined by the Director, Western Region, this enforcement action will be closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided 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 [7009 1410 0000 2472 2438]

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

)
In the Matter of)

)
Pacific Operators Offshore LLC,)

CPF No. 5-2006-7001

)
Respondent.)
_____)

FINAL ORDER

On July 25 to 26, 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 and records of Pacific Operators Offshore LLC (PACOPS or Respondent) at its offices in Carpinteria, California. Respondent operates two platforms in federal waters off the coast of California, which are connected by two pipelines, a 10-inch crude-oil line and a 12-inch produced gas line, to an onshore process facility in La Conchita, California.

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated June 15, 2006, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that PACOPS had violated 49 C.F.R. § 195.420(b) and proposed assessing a civil penalty of \$10,000 for the alleged violation. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violation.

PACOPS failed to respond within 30 days of receipt of service of the Notice.¹ Such failure to respond constitutes a waiver of Respondent's right to contest the allegations in the Notice and authorizes the entry of this Final Order.²

¹ 49 C.F.R. 190.209(c) (stating that a "[f]ailure of the respondent to respond" within 30 days of receiving a Notice "constitutes a waiver of the right to contest the allegations in the notice of probable violation and authorizes the Associate Administrator, OPS, without further notice to the respondent, to find facts to be as alleged in the notice of probable violation and to issue a final order").

² PACOPS attempted to respond to the Notice and request an informal hearing by letters dated February 18 and March 6, 2009. As PHMSA received those letters nearly four years after the issuance of the Notice and Respondent has not provided any explanation for that delay, I am issuing the Final Order in this case without affording any consideration to either.

FINDING OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 195, as follows:

Item 1: The Notice alleged that PACOPS violated 49 C.F.R. § 195.420(b), which states:

§ 195.420 Valve maintenance.

(a)

(b) Each operator shall, at intervals not exceeding 7 1/2 months, but at least twice each calendar year, inspect each mainline valve to determine that it is functioning properly.

The Notice alleged that Respondent violated 49 C.F.R. § 195.420(b) by failing to, at intervals not exceeding 7 1/2 months, but at least twice each calendar year, inspect each mainline valve to determine it is functioning properly. Specifically, the Notice alleged that PACOPS's personnel admitted that it had not inspected the mainline block valve at the La Conchita plant twice a year for the 2003 and 2004 calendar years. Respondent waived its right to contest these allegations by failing to submit a timely response to the Notice. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.420(b) by failing to, at intervals not exceeding 7 1/2 months, but at least twice each calendar year, inspect each mainline valve to determine it is functioning properly.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

ASSESSMENT OF PENALTY

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

In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must 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 \$10,000 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$10,000 for Respondent's violation of 49 C.F.R. § 195.420(b) for failing to, at intervals not exceeding 7 1/2 months, but at least twice each calendar year, inspect each mainline valve to determine it is functioning properly. PACOPS waived its right to contest the civil penalty by failing to submit a timely response to the Notice, and I find that proposed amount is justified by the record and statutory assessment criteria. Accordingly, having reviewed the record and considered the assessment criteria for the Item cited above, I assess Respondent a total civil penalty of **\$10,000**.

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), made payable to "U.S. Department of Transportation," to the Federal Aviation Administration, Mike Monroney Aeronautical Center, Financial Operations Division (AMZ-341), P.O. Box 269039, Oklahoma City, OK 73125. Federal regulations (49 C.F.R. § 89.21(b)(3)) also permit 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-341), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 269039, Oklahoma City, OK 73125; (405) 954-8893.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 1 in the Notice for violations of 49 C.F.R. § 195.420(b). Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids 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:

1. With respect to the violation of § 195.420(b) (**Item 1**), Respondent must:
 - a. Perform a biannual inspection of the mainline block valve at the La Conchita plant as required by 49 C.F.R. § 195.420(b) and keep a record of those inspections as required by 49 C.F.R. § 195.404(c)(3);
 - b. Maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Chris Hoidal, Director, Western Region, PHMSA. Costs shall be reported in two categories:
 - i. Total cost associated with preparation/revision of plans, procedures, studies, and analyses;

- ii. Total cost associated with replacements, additions, and other changes to pipeline infrastructure.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$100,000 for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

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 sent to: Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590. A copy of the petition should also be sent to: Assistant Chief Counsel for Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590. The petition must be received no later than 20 days after service of this Final Order upon the Respondent and must contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.215. The filing of the petition automatically stays the payment of any civil penalty assessed. Unless the Associate Administrator, upon request, grants a stay, all other terms and conditions of this Final Order are effective upon receipt of service.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued