

MAR 17 2010

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

Re: CPF No. 5-2007-0003

Dear Mr. Carone:

Enclosed is the Final Order issued in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$10,000. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon payment. 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

CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7009 1410 0000 2472 5170]

**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,)

Respondent.)

CPF No. 5-2007-0003

FINAL ORDER

On July 26-27, 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 (Respondent or Pacific Operators), in Carpinteria, California. Respondent's pipeline consists of a 12-inch natural gas pipeline running approximately 5.8 miles from the Hogan offshore platform to the La Conchita Plant in La Conchita, California.

As a result of the inspection, the Director, Western Region, PHMSA (Director), issued to Respondent, by letter dated February 16, 2007, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had violated 49 C.F.R. § 192.745(a) and proposed assessing a civil penalty of \$10,000 for the alleged violation.

Pacific Operators responded to the Notice by letter dated March 1, 2007 (Response), and requested a hearing. An informal hearing via telephone conference was held on August 8, 2007, with Larry White, Office of Chief Counsel, PHMSA, presiding.

FINDING OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 192, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.745(a), which states:

§ 192.745 Valve maintenance: Transmission lines.

(a) Each transmission line valve that might be required during any emergency must be inspected and partially operated at intervals not exceeding

15 months, but at least once each calendar year.

The Notice alleged that Respondent violated 49 C.F.R. § 192.745(a) by failing to inspect and partially operate, at least once each calendar year, each transmission line valve on its pipeline that might be required during emergencies. Specifically, the Notice alleged that Pacific Operators failed to inspect its mainline block valve at the La Conchita Plant for years 2003 and 2004.

In its Response and during the hearing, Pacific Operators acknowledged that it was unable to produce inspection forms or records demonstrating that the required annual valve inspection was performed for 2003 or 2004, but contended that periodic operation of the valve during the course of the year meant that it was operational and therefore met the inspection and partial operation requirement of § 192.745(a).

OPS stated that it had obtained a copy of the relevant section of Respondent's written Operations and Maintenance Manual, entitled "Procedure 7.01 Emergency Valve Maintenance." This written procedure required specific actions to be taken during annual valve inspections, including greasing or lubricating the valve, introducing power to powered valves and fully or partially operating the valve, inspecting for atmospheric corrosion, inspecting the area around the valve to ensure it was accessible by personnel, checking for blow-down obstructions, and checking signage. In addition, Procedure 7.01 required that a record of such annual valve inspection be created by completion of Form 7.01. At the hearing, Respondent acknowledged that it had failed to follow its own written procedures for performing and documenting the valve inspection.

Moreover, Respondent's argument that the regular operation of a transmission line valve satisfies the annual inspection requirement is unpersuasive. This argument amounts to the proposition that OPS's longstanding requirements for periodic maintenance inspections and recordkeeping for pipeline components such as mainline valves can be disregarded. Periodic valve inspection requirements, however, were included in the Federal pipeline safety regulations for good reason—to ensure the safe operation of pipeline facilities. If a pipeline valve needs service, waiting to find out until the operator is in the midst of using the valve, such as during an unintended shut-down, could compromise safety. Compliance with the annual valve inspection requirement is not optional.

Accordingly, after considering all the evidence, I find that Respondent violated 49 C.F.R. § 192.745(a) by failing to perform documented annual inspections of its mainline block valve at the La Conchita Plant for years 2003 and 2004.

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 Respondent's violation of 49 C.F.R. § 192.745(a), for failing to perform documented annual inspections of the company's mainline block valve at the La Conchita Plant for years 2003 and 2004. In its Response and during the hearing, Pacific Operators stated that compliance was important and that it gave regular attention to its valves. Respondent reiterated its contention that it believed it had "met the spirit of the requirement" and characterized the non-compliance as a recordkeeping issue.

As stated above, compliance with periodic valve inspection requirements is a key part of pipeline safety. Respondent's own procedures required that a documented annual inspection be performed; the company acknowledged that it failed to follow these procedures. Maintaining complete and accurate records is itself important to safety because, in the absence of complete records, an operator's managers cannot perform effective oversight of personnel who perform pipeline maintenance. Respondent has presented no information that would warrant a reduction in the civil penalty amount proposed in the Notice for this violation.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of **\$10,000** for violating 49 C.F.R. § 192.745(a).

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 269039, Oklahoma City, OK 73125; (405) 954-8893.

Failure to pay the \$10,000 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.

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. PHMSA is willing to accept petitions received no later than 20 days after receipt of service of this Final Order by the Respondent, provided such petitions contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.215. Unless the Associate Administrator, upon request, grants a stay, the terms and conditions of this Final Order are effective upon receipt of service.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued