

JUN 15 2009

Ms. Rebecca B. Roberts
President
Chevron Pipe Line Company
4800 Fournace Place
Bellaire, TX 77401

Re: CPF No. 5-2007-1007

Dear Ms. Roberts:

Enclosed is the Final Order issued in the above-referenced case. It makes findings of violation, specifies actions that need to be taken by Chevron to comply with the pipeline safety regulations, and assesses a civil penalty. I acknowledge receipt of and accept your wire transfer for \$60,000 as payment in full of the civil penalty assessed in the Final Order. When the terms of the compliance order have been completed, as determined by the Director, Western Region, Office of Pipeline Safety, this enforcement action will be 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: Mr. Chris Hoidal, Director, Western Region, OPS

CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7005 1160 0001 0046 9617]

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

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In the Matter of)	
)	
Chevron Pipe Line Company,)	CPF No. 5-2007-1007
)	
Respondent.)	
)	

FINAL ORDER

On September 11 –14 and 25 – 29, 2006, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), inspected the integrity management program (IMP) of Chevron Pipe Line Company (Chevron or Respondent) at its corporate offices in Bellaire, Texas. Chevron presently operates natural gas transmission pipelines in Alabama, Mississippi, Louisiana, Texas, and California.

Following that inspection, the Director, Western Region, OPS (Director), issued to Chevron, by letter dated June 11, 2007, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice alleged that Chevron had violated several pipeline safety regulations, 49 C.F.R. §§ 192.905, 192.911, 192.935 and 192.945. The Notice then proposed that Chevron be assessed a civil penalty of \$60,000, and ordered to undertake certain corrective actions for those alleged violations.

Chevron responded to the Notice by letter dated August 10, 2007 (Response).¹ After stating that it “[wa]s not contesting the concerns raised by PHMSA,” Chevron described in its Response the steps that it planned to take to address each of the allegations. In a follow-up letter, dated September 1, 2008, Chevron updated the Director on the status of those correction actions.

Respondent did not request a hearing but submitted a wire transfer in the amount of the proposed penalty (\$60,000), thereby waiving any further right to respond and authorizing the entry of this Final Order.

¹ On July 3, 2007, the Director granted Chevron’s request for additional time to file its Response.

FINDINGS OF VIOLATION

Items 1A and 1B of the Notice alleged that Chevron violated 49 C.F.R. § 192.905(a), which states, in relevant part:

§ 192.905 How does an operator identify a high consequence area?

(a) *General.* To determine which segments of an operator's transmission pipeline system are covered by this subpart, an operator must identify the high consequence areas. An operator must use method (1) or (2) from the definition in § 192.903 to identify a high consequence area. An operator may apply one method to its entire pipeline system, or an operator may apply one method to individual portions of the pipeline system. An operator must describe in its integrity management program which method it is applying to each portion of the operator's pipeline system. The description must include the potential impact radius when utilized to establish a high consequence area (*See* appendix E.I. for guidance on identifying high consequence areas.)

Turning first to Item 1A, the Notice alleged that Chevron's Geographic Information System (GIS) contained inaccurate information on the high consequence areas (HCA or HCAs) and covered segments of its pipeline. *See* 49 C.F.R. § 192.903 (defining HCA and covered segment). The Notice further alleged that those inaccuracies were the product of Chevron's failure to follow its own procedures for inputting pipeline data from source documents. Finally, the Notice alleged that Chevron had misapplied "method (1)" in evaluating its pipeline system, further contributing to its failure to properly identify all of its HCAs. As none of these allegations is contested, I find that Chevron violated § 192.905(a) by failing to have accurate information on the HCAs and covered segments of its pipeline in its GIS, to follow its own procedures for inputting pipeline data from source documents, and to properly apply method 1 in identifying the HCAs of its pipeline.

With respect to Item 1B, the Notice alleged that Chevron had no documents showing that certain structures, selected by the OPS inspector upon review of aerial photographs, had received an identified-site determination. 49 C.F.R. §§ 192.903, 192.905(b). The Notice further alleged that Chevron had not determined if certain buildings, already classified as identified sites, met the Class-3-location criteria. 49 C.F.R. § 192.5. These allegations are also not contested; therefore, I find that Chevron violated § 192.905(a) by failing to evaluate all potential identified sites and to determine whether certain buildings, already classified as identified sites, met the Class-3-location criteria.

Item 2A of the Notice alleged that Chevron violated 49 C.F.R. § 192.935(a), which states, in relevant part:

§ 192.935 What additional preventive and mitigative measures must an operator take?

(a) *General requirements.* An operator must take additional measures beyond those already required by Part 192 to prevent a pipeline failure and to mitigate the consequences of a pipeline failure

in a high consequence area. An operator must base the additional measures on the threats the operator has identified to each pipeline segment. (See § 192.917) An operator must conduct, in accordance with one of the risk assessment approaches in ASME/ANSI B31.8S (incorporated by reference, see § 192.7), section 5, a risk analysis of its pipeline to identify additional measures to protect the high consequence area and enhance public safety. Such additional measures include, but are not limited to, installing Automatic Shut-off Valves or Remote Control Valves, installing computerized monitoring and leak detection systems, replacing pipe segments with pipe of heavier wall thickness, providing additional training to personnel on response procedures, conducting drills with local emergency responders and implementing additional inspection and maintenance programs.

The Notice alleged that Chevron had violated § 192.935(a) by not adequately identifying the additional measures needed to prevent and mitigate the effects of a pipeline failure in an HCA. The Notice further alleged that while Chevron had identified some of the required preventive and mitigative measures (PMMs)—namely, those designed to prevent and mitigate mechanical damage on the so-called Chalmette line—the need for those PMMs was not documented in its computerized tracking system. Finally, the Notice alleged that Chevron did not know whether the Chalmette line PMMs had ever been approved or implemented. Having not contested any of these allegations, and for the reasons described more fully in Item 2A of the Notice, I find that Chevron violated 49 C.F.R. § 192.935(a) by failing to identify and implement the additional measures needed to prevent and mitigate a pipeline failure in an HCA.

Item 3A of the Notice alleged that Chevron violated 49 C.F.R. § 192.911(l), which states, in relevant part:

§ 192.911 What are the elements of an integrity management program?

An operator's initial integrity management program begins with a framework (*see* § 192.907) and evolves into a more detailed and comprehensive integrity management program, as information is gained and incorporated into the program. An operator must make continual improvements to its program. The initial program framework and subsequent program must, at minimum, contain the following elements. (When indicated, refer to ASME/ANSI B31.8S (incorporated by reference, see § 192.7) for more detailed information on the listed element.)

...

(l) A quality assurance process as outlined in ASME/ANSI B31.8S, section 12.

The Notice alleged that Chevron had violated § 192.911(l) by using an IMP that did not include a means for monitoring the effectiveness of, or need for improvements in, its quality assurance process. The Notice cited Chevron's failure to correct deficiencies that had been discovered during prior independent audits. On the basis of these undisputed

allegations, I find that Chevron violated 49 C.F.R. § 192.911(l) by using an IMP that did not include a means for monitoring the effectiveness of, or need for improvements in, its quality assurance process, as described more thoroughly in Item 3A of the Notice.

Finally, Item 4A of the Notice alleged that Chevron violated 49 C.F.R. § 192.945(a), which states, in relevant part:

§ 192.945 What methods must an operator use to measure program effectiveness?

(a) *General.* An operator must include in its integrity management program methods to measure, on a semi-annual basis, whether the program is effective in assessing and evaluating the integrity of each covered pipeline segment and in protecting the high consequence areas. These measures must include the four overall performance measures specified in ASME/ANSI B31.8S (incorporated by reference, see § 192.7), section 9.4, and the specific measures for each identified threat specified in ASME/ANSI B31.8s, Appendix A. An operator must submit the four overall performance measures, by electronic or other means, on a semi-annual frequency to OPS in accordance with § 192.951. An operator must submit its first report on overall performance measures by August 31, 2004. Thereafter, the performance measures must be complete through June 30 and December 31 of each year and must be submitted within 2 months after those dates.

The Notice alleged that Chevron had violated § 192.945(a) by not conducting a semi-annual evaluation of its IMP to determine its effectiveness in assessing the integrity of covered pipeline segments and in protecting HCAs.² As that allegation is uncontested, I find that Chevron violated 49 C.F.R. § 192.945(a) by not conducting a semi-annual IMP evaluation to determine its effectiveness in assessing the integrity of covered pipeline segments and in protecting HCAs.

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

ASSESSMENT OF PENALTY

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: 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 \$ 60,000 for

² The Notice further alleged that Chevron's IMP Manual did not provide detailed information on how the semi-annual performance measurements, overall and threat specific, would be tracked and analyzed.

Chevron's violations of 49 C.F.R. §§ 192.905, 192.911, 192.935 and 192.945. Having reviewed the record in this case and considered the applicable assessment criteria, I find that amount is justified.

First, with regard to the nature, circumstances, and gravity of the violations, I find that Chevron's failure to properly identify the HCAs and covered segments of its pipeline, and to implement additional PMMs in those sections identified as HCAs, created a credible threat to public safety.

As the OPS inspector opined in his report, an HCA or covered segment is subject to more stringent requirements under the current regulations. These include, e.g., the performance of additional assessments, the implementation of extra PMMs, and the conduct of more routine repairs.

However, when an operator does not properly identify an HCA or covered segment, these segments will not receive the additional safety-related measures necessary to protect critical areas. The integrity of Chevron's pipeline and the safety of the public both suffer as a result.

Likewise, the regulations require additional PMMs in HCAs to reduce the likelihood and detrimental impact of a pipeline failure in circumstances where the public is most vulnerable. But Chevron's failure to implement additional PMMs could have produced the opposite effect, so that a such failure could be more likely, and that the detrimental impact of that event could be more severe.

Second, I agree with the OPS inspector, as evidenced in his report, that Chevron bears full culpability for each of these violations, and that it did not make any good faith attempts to comply with the underlying regulations.

Finally, Chevron has never argued that the proposed civil penalty amount should be reduced. To the contrary, it has already paid that amount in full and without objection.

Accordingly, I assess Chevron a civil penalty of \$60,000, which amount has already been paid by Respondent.

COMPLIANCE ORDER

The Notice proposed a Compliance Order with respect to Items 1A, 1B, 2A, 3A, and 4A for violations of 49 C.F.R. Part 192. 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.

1. In regard to Item Number 1A of the Notice, Respondent must conduct a new study of all pipeline segments and determine if an HCA exists or not using

As-Built Drawings to indicate correct stationing to locate any HCAs. Furthermore, Respondent must utilize its QA/QC program to ensure that correct information is transferred into its GIS system, and it must document these changes in its IMP.

2. In regard to Item Number 1B of the Notice, Respondent must, in conjunction with Item 1A above, conduct a survey of all potential identified sites along all of its pipeline systems and document the HCA boundary changes. Furthermore, Respondent must document all contact information obtained from these surveys, including third party contact name, phone number, and number of people at a site, and use this information to adjust HCA and classification designation along the pipeline system. A complete list of any adjustments made to HCAs or pipeline classification as a result of this survey or Item 1 above must be reported to PHMSA's Western Region Director at the conclusion of the survey's data being incorporated into Chevron's Gas IMP. This must be completed within six (6) months of the receipt of the final order.
3. In regard to Item Number 2A of the Notice, Respondent must complete a preventive and mitigative (P&M) evaluation for all its pipeline systems within six (6) months from receipt of the final order. Furthermore, Respondent must provide a list of all P&M measures considered and planned for implementation at the end of this six (6) month window. Respondent must have all P&M activities chosen for implementation completed or in active use within one (1) year from the receipt of this final order.
4. In regard to Item Number 3A of the Notice, Respondent's IM procedures must specify that all appropriately identified corrective actions must be implemented within one year of the corrective actions being identified. On an annual basis for the next five (5) years from the date of receipt of this Final Order, but no later than January 31 of each calendar year, Respondent must also provide PHMSA's Western Region Director with a complete list of the corrective actions it has identified by any internal or external processes or other means, a statement indicating whether those corrective actions were or were not implemented, and an explanation of the steps taken to address those corrective actions.
5. In regard to Item Number 4A of the Notice, Respondent must begin to measure and evaluate IMP performance semi-annually using threat-specific metrics as required by § 192.945(a). Respondent must implement this performance measurement requirement within six (6) months from the receipt of this final order. Furthermore, every six months for the next four (4) years from the date of receipt of this Order, Respondent must provide this performance measurement matrix for each of the preceding four years to PHMSA's Western Region Director.
6. Respondent must maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Chris Hoidal, Director, Western Region, Pipeline and Hazardous Materials Safety

Administration, 12300 West Dakota Avenue, Suite 110, Lakewood, Colorado 80228. Costs must be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and 2) 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 demonstrating good cause for an extension.

Failure to comply with this Order may result in 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.

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

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued