

NOVEMBER 28, 2012

Mr. Lee Hobbs
President and General Manager
North Baja Pipeline, LLC
717 Texas Street
Houston, TX 77002-2761

Re: CPF No. 5-2011-1001

Dear Mr. Hobbs:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$16,200 and specifies actions that need to be taken by North Baja Pipeline, LLC to comply with the pipeline safety regulations. When the civil penalty has been paid and the terms of the compliance order have been 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, OPS
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS
Ms. Cynthia Presnell, Associate, Regional Asset Reliability, TransCanada, 201 W. North
River Drive, Suite 505, Spokane WA 99201

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

_____)	
In the Matter of)	
)	
North Baja Pipeline, LLC,)	CPF No. 5-2011-1001
)	
Respondent.)	
_____)	

FINAL ORDER

On December 8-13, 2010, pursuant to 49 U.S.C. § 60117, the Arizona Corporation Commission, as an agent for 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 North Baja Pipeline, LLC (North Baja or Respondent) in Arizona. North Baja's natural gas pipeline system consists of 80 miles of 30 and 36-inch diameter pipeline that runs from southwestern Arizona into California. The system is operated and partially owned by TransCanada Pipelines Limited.¹

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated April 28, 2011, 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 North Baja violated 49 C.F.R. § 192.605 and proposed assessing a civil penalty of \$16,200 for an alleged violation. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations.

TransCanada responded to the Notice by letter dated November 14, 2011 (Response). The company did not contest the allegations of violation but did contest the terms of the proposed compliance order. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

In its Response, North Baja did not contest the allegations in the Notice that it violated 49 C.F.R. Part 192, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a), which states:

¹ <http://www.northbajapipeline.com/> (last accessed on August 16, 2012).

§ 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a) by failing to follow, for each pipeline, a manual of written procedures for conducting operations and maintenance activities. Specifically, the Notice alleged that North Baja failed to follow its operating procedures when repairing pipeline coating damage. According to Respondent's procedures, prior to repairing pipeline coating damage, the affected area must be prepared by sandblasting or "roughing up" the original coating. In December 2007, Respondent initiated repair of damaged coating on its pipeline. However, upon excavation in December 2010, it was clear that the pipeline was not properly subjected to sandblasting or "roughing up" prior to the application of epoxy. Photographs² of the excavated area demonstrate that the hand-applied epoxy was placed over the bare surface and original coating of the pipeline, in violation of the company's written procedures.

Respondent did not contest this allegation of violation, but provided information regarding its contract for the repair and the coating specification for the conditions observed in 2007. In its response, North Baja forwarded written evidence that appears to demonstrate that its contractor was to sandblast the damaged areas prior to coating the pipeline. Notwithstanding this evidence, the Respondent acknowledges that "the 2010 photographs show disbondment similar to that observed in 2007 and 2008 [and] the Company cannot produce evidence to demonstrate that the work was performed as indicated by the contractor invoices."³

Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.605(a) by failing to follow its written procedures requiring that, prior to repairing coating damage, any affected areas be cleaned by sandblasting or "roughing up" the original coating.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.605(b)(2), which states:

§ 192.605 Procedural manual for operations, maintenance, and emergencies.

(a)

(b) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following, if applicable, to provide safety during maintenance and operations.

² Pipeline Safety Violation Report, at 9.

³ Response, at 2.

- (1)
- (2) Controlling corrosion in accordance with the operations and maintenance requirements of subpart I of this part.

The Notice alleged that Respondent violated 49 C.F.R. § 192.605(b)(2) by failing to include in its procedural manual for operations, maintenance, and emergencies, a procedure for controlling corrosion in accordance with the operations and maintenance requirements of Subpart I of this part. Specifically, the Notice alleged that North Baja had no written procedure for identifying abnormally high levels of pipe-to-soil potentials requiring remedial action. When reviewing the TransCanada Operations Procedure Manual 25.0 192.463 – *Cathodic Protection Criteria*, the inspector found that there was no written procedure for identifying what level of abnormally high pipe-to-soil potentials would require remedial action.

Respondent did not contest this allegation of violation.

Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.605(b)(2) by failing to include in its procedural manual a procedure for controlling corrosion in accordance with the operations and maintenance requirements of Subpart I of this part.

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 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 \$16,200 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$16,200 for Respondent's violation of 49 C.F.R. § 192.605(a), for failing to follow its own procedures when repairing pipeline coating by first preparing the original coating through sandblasting or "roughing up". The Respondent submitted several pieces of evidence in support of its request for a reduction of the proposed civil penalty. First, a TransCanada employee sent an email to the project contractor that specifically mentions that sandblasting should be assessed an extra labor charge. Second, it appears that, as of March 2007, prior to the attempted remediation of the coating damage in this case, TransCanada had a specification in place for coating applications on TransCanada facilities in

the United States that identified the appropriate surface preparation in great detail.⁴ Lastly, TransCanada submitted daily inspection reports and contractor invoices from the time of the 2007 repair that purport to demonstrate the affected areas were sandblasted. While the company has presented a great deal of evidence to demonstrate that it complied with its procedures, the most compelling evidence are the 2010 photographs of the excavated pipeline. If the work had been done according to TransCanada's specifications, the 2010 pipeline would not be in the same condition as was noted in 2007. Given that the company has no explanation for the condition that was observed in 2010, it can only be inferred that, even though the Respondent properly contracted for the remediation, the affected areas were not in fact properly prepared prior to recoating. Despite its procedures, the Respondent failed to adequately verify that the work was properly completed and a potentially dangerous condition was allowed to persist for three years. This facility is located in a Class 1 location directly adjacent to a LNG facility. In the event of a pipeline failure and gas release, significant damage could have ensued. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$16,200 for violation of 49 C.F.R. § 192.605(a).

In summary, having reviewed the record and considered the assessment criteria for the Item cited above, I assess Respondent a total civil penalty of **\$16,200**.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such 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, Oklahoma 73125. The Financial Operations Division telephone number is (405) 954-8893.

Failure to pay the \$16,200 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 district court of the United States.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1 and 2 in the Notice for violations of 49 C.F.R. §§ 192.605(a) and 192.605(b)(2), respectively. 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. The Director has indicated that Respondent has taken the following actions to address some of the cited violations:

⁴ Page 8 of 20, TransCanada Specification, *TES-COAT-EPU-US External Epoxy/Urethane Coating Systems*. March 15, 2007.

In response to the Notice, Respondent modified its procedure 192.463 – *Cathodic Protection Criteria, Section 4.0 subpart 5* to read as follows:

Potentials that result in excessive generation of hydrogen are avoided to minimize the possibility of cathodic protection disbanding of coating systems or pipe damage. Polarized potentials more negative than -1.200 volts measured with reference to a saturated copper-copper sulfate half-cell may require further monitoring. Polarized potentials more negative than -1.300 volts measured with reference to a saturated copper-copper sulfate half-cell require diagnostic testing and/or further analysis as outlined in the Company's standard, TES-CP-SS, *Cathodic Protection Survey Specification* and NACE SP0169-2007, *Control External Corrosion on Underground or Submerged Metallic Piping Systems*. Additional diagnostic testing is conducted when disbanded coating or pipe damage is discovered.

Accordingly, I find that compliance has been achieved with respect to this violation. Therefore, the compliance terms proposed in the Notice for Item 2 is not included in this Order.

As for the remaining compliance terms, 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 § 192.605(a) (**Item 1**), Respondent must submit the semi-annual reports describing efforts to follow its written procedures for repairing pipeline coating damage. These reports must be transmitted to the Western Region Director until such a time as he determines that TransCanada has established an acceptable record of following its written procedures for repairing pipeline coating damage.

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 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 are effective upon service in accordance with 49 C.F.R. § 190.5.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued