

**November 3, 2015**

Mr. Thad Hill  
President  
Calpine Corporation  
717 Texas Avenue  
Suite 1000  
Houston, TX 77002

**Re: CPF No. 5-2014-0006**

Dear Mr. Hill:

Enclosed please find the Final Order issued in the above-referenced case. It withdraws the allegation of violation and notes that CPN Pipeline Company has taken certain actions. Therefore, this case is now 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: Director, Western Region, OPS  
Mr. Lyle Fedge, Director, Pipeline Operations, CPN Pipeline Company, 60 River Road,  
Rio Vista, CA 94571

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

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

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<b>In the Matter of</b>	)	
	)	
<b>CPN Pipeline Company,</b>	)	<b>CPF No. 5-2014-0006</b>
	)	
<b>Respondent.</b>	)	
_____	)	

**FINAL ORDER**

On May 5-9, June 9-12, and July 21-25 2014, 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 CPN Pipeline Company (CPN or Respondent) in Rio Vista, California. CPN Pipeline Company is a subsidiary of Calpine Corporation. CPN Pipeline Company transports the natural gas that fuels Calpine power plants, including the Baytown, Freestone, Deer Park, Channel, Pasadena and Magic Valley Energy Centers.<sup>1</sup>

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated November 12, 2014, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that CPN Pipeline Company had violated 49 C.F.R. § 192.453 and proposed ordering Respondent to take certain measures to correct the alleged violation.

CPN responded to the Notice by letter dated December 9, 2014 (Response). The company contested the allegation of violation but also provided information concerning certain actions it had taken and submitted copies of its revised procedures. Respondent did not request a hearing and therefore has waived its right to one.

**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. § 192.453, which states:

**§ 192.453 General.**

<sup>1</sup> [http://sitemanager.pdigm.com/user/file/Texas/CPN\\_Pipeline\\_Company.pdf](http://sitemanager.pdigm.com/user/file/Texas/CPN_Pipeline_Company.pdf) (last accessed June 30, 2015).

The corrosion control procedures required by § 192.605(b)(2), including those for the design, installation, operation, and maintenance of cathodic protection systems, must be carried out by, or under the direction of, a person qualified in pipeline corrosion control methods.

The Notice alleged that Respondent violated 49 C.F.R. § 192.453 by failing to carry out the corrosion control procedures by, or under the direction of, a person qualified in corrosion control methods required by § 192.605(b)(2), including those for the design, installation, operation, and maintenance of cathodic protection systems. Specifically, the Notice alleged that CPN failed to document the person qualified in pipeline corrosion control methods on its corrosion control records when specific covered tasks were performed. When reviewing several annual cathodic protection (CP) survey reports and periodic rectifier reading records, the OPS inspector found that the name of a qualified individual was missing.

In its Response, CPN disputed the allegation that it violated § 192.453 and attached an affidavit by their corrosion control specialist stating that he, a qualified corrosion specialist, performed the corrosion control activities referenced in the Notice. The Respondent stated that, as a small operator, a single employee, with limited assistance from an outside contractor, performed all required inspections on its Sacramento Valley pipeline system.

While each cathodic protection survey and rectifier reading should clearly indicate the name of the qualified individual who performed the task, I find Respondent's explanation that a single qualified individual carried out or supervised the corrosion control procedures persuasive. The regulation in question requires that the procedures be carried out, or performed under the direction, of a qualified person. The Respondent has provided the name and qualifications of the individual that performed these tasks, along with his affidavit that the required procedures were followed for the records referenced in the Notice. The Respondent's production of this evidence has shifted the burden of proof to the Western Region to demonstrate that a violation has occurred. The Region produced no rebuttal evidence.

Respondent did not contest this allegation of violation. Accordingly, after considering all of the evidence, I find that Respondent complied with 49 C.F.R. § 192.453 by using a person qualified in pipeline corrosion control to carry out its procedures. Based upon the foregoing, I hereby order that Item 1 be withdrawn.

### **COMPLIANCE ORDER**

The Notice proposed a compliance order with respect to Item 1 in the Notice for violation of 49 C.F.R. § 192.453. 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 indicates that Respondent has taken the following actions specified in the proposed compliance order:

1. With respect to the violation of § 192.453 (**Item 1**), Respondent has provided

documentation of the qualified individual who performed the task on each cathodic protection survey and rectifier reading record.

Given that the Notice has been withdrawn, there is no basis for a Compliance Order. Nevertheless, this Order acknowledges that the Respondent has taken the aforementioned actions.

Under 49 C.F.R. § 190.243, 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, 2<sup>nd</sup> Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. PHMSA will accept petitions received no later than 20 days after receipt of service of this Final Order by the Respondent, provided they contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. Unless the Associate Administrator, upon request, grants a stay, the terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

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Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

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Date Issued