

Mr. H. Dan White  
President  
California Oil Unit  
ARCO Oil and Gas Company  
P.O. Box 147  
Bakersfield, California 93302

Re: CPF No. 53018

Dear Mr. White:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$15,500, and requires certain corrective action. The penalty payment terms are set forth in the Final Order.

Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Sincerely,

Gwendolyn M. Hill  
Pipeline Compliance Registry  
Office of Pipeline Safety

Enclosure

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DEPARTMENT OF TRANSPORTATION  
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION  
WASHINGTON, DC

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In the Matter of )  
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ARCO Oil and Gas Company, ) CPF No. 53018  
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Respondent. )  

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FINAL ORDER

On September 28-30, 1993, pursuant to 49 U.S.C. § 60117, a representative of the Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of Respondent's facilities and records in Bakersfield, California. As a result of the inspection, the Director, Western Region, OPS, issued to Respondent, by letter dated October 25, 1993, 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 Respondent had violated 49 C.F.R. §§ 192.13(c), 192.465(b), 192.465(d), 192.477, 192.603(b), 192.615(a) and 192.739 and proposed assessing a civil penalty of \$33,500 for the alleged violations. The Notice also proposed that Respondent take certain measures to correct the alleged violations.

Respondent responded to the Notice by letter dated November 18, 1993. Respondent contested several of the allegations, submitted additional information and requested that the proposed civil penalty be mitigated. Respondent did not request a hearing and, therefore, has waived its right to one.

FINDINGS OF VIOLATION

Item 1 in the Notice alleged that Respondent had violated 49 C.F.R. § 192.13(c) because it could not demonstrate that it was running ads once a year in local newspapers where it had pipeline operations, as its operating and maintenance manual required.

Respondent did not dispute this allegation. Respondent explained that it had run the ads in 1990, 1991 and 1993 but had not run the ads in 1992 because of personnel reassignments. Accordingly, I find that Respondent violated 49 C.F.R. § 192.13(c).

Item 2 alleged that Respondent violated 49 C.F.R. § 192.465(b), which requires each cathodic protection rectifier or other impressed current power source be inspected six times each calendar year, with intervals not exceeding 2 ½ months. The Notice alleged that in 51 instances, Respondent had exceeded the required inspection interval at its rectifiers.

Respondent submitted documents demonstrating that it had conducted timely rectifier inspections in 29 of the 51 cited instances. Respondent agreed that it had not inspected the remaining 22 rectifiers within the required interval. Accordingly, I find that Respondent violated § 192.465(b) by exceeding the required inspection interval at these 22 rectifiers.

Item 3 alleged that Respondent had not taken prompt remedial action to correct low readings for two or more years at six locations on its pipeline system, in violation of 49 C.F.R. § 192.465(d).

Respondent said that it had performed remedial work at the cited locations and submitted monthly engineering activity reports showing the work it had done. Respondent explained that it installed twelve sacrificial anodes in July 1992, and in April 1993, exposed and inspected the line, then met with other pipeline company representatives to discuss the interference problems that these companies' pipelines posed to Respondent's facilities. Respondent said that it installed two additional anodes in June 1993, attached connecting leads on a rectifier and performed cathodic protection and close interval surveys in September 1993. Respondent said it planned additional work to rectify the low potentials.

Respondent demonstrated that starting in mid-1992 it took action to remedy the interference problem. Although OPS expects that an operator will remedy a problem by the next inspection cycle, which Respondent did not do, OPS has not shown why Respondent's remedial action was not prompt. Accordingly, I am withdrawing this allegation of violation.

Item 4 alleged that Respondent violated 49 C.F.R. § 192.477, which requires that each coupon or other means of monitoring internal corrosion be checked two times each calendar year, with intervals not exceeding 7 ½ months. The Notice alleged that Respondent exceeded the required interval for its Gas Line 206 at valve box 14.

Respondent did not dispute this allegation. Respondent noted that of 210 corrosion coupon data points, it had exceeded the required interval only at this one location due to agricultural flooding. Accordingly, I find that Respondent violated 49 C.F.R. § 192.477.

Items 5 and 6 in the Notice alleged that Respondent had violated 49 C.F.R. § 192.603(b) because it did not have written procedures for prevention of accidental ignition (required by § 192.751) and did not have records demonstrating that it was establishing and maintaining liaison with appropriate fire, police and other public officials (required by § 192.615(c)). Section 192.603(b) requires an operator to have records necessary to administer the procedures that are required as part of its manual for operations, maintenance and emergencies.

Respondent submitted procedures that it maintained addressed prevention of accidental ignition. Respondent also submitted documentation of its contact with local fire departments. Respondent explained that since local fire departments are considered the designated agency responders to pipeline incidents in the areas in which Respondent operates, Respondent considered contact with these agencies sufficient to satisfy the regulatory requirements.

I find that Respondent's procedures for prevention of accidental ignition address all required elements of § 192.751. Accordingly, I withdraw this allegation of violation.

Respondent demonstrated that it was maintaining liaison with local fire departments. Nonetheless, I find that Respondent violated § 192.603(b) with respect to its emergency outreach efforts. Respondent must also establish and maintain liaison with local police and other public officials who may have a role in responding to a pipeline emergency.

Item 7 alleged that Respondent violated 49 C.F.R. § 192.615(a), which requires an operator to establish written procedures to minimize the hazard resulting from a gas pipeline emergency. The Notice alleged that Respondent's procedures did not address the availability of personnel, equipment, tools and materials, as needed at the scene of an emergency.

Respondent said that its Emergency Response plan provided for handling emergency situations, including emergency call out and notification procedures for supervisory personnel. Respondent explained that its supervisory personnel have access to personnel phone lists and also have knowledge of necessary equipment and tool availability. Respondent further explained that it contracts with various contractor firms that can be contacted if additional equipment or response assistance is needed, and that lists detailing the specific equipment and tools available from these contractors are maintained by the contracts administration group.

Although Respondent has processes in place dealing with the availability of personnel, tools and equipment at the scene of an emergency, it had not incorporated these processes into its written emergency plan procedures. Accordingly, I find that Respondent violated 49 C.F.R. § 192.615(a).

Item 8 alleged that Respondent had not inspected, tested or reviewed calculations at valves PSV 1551 and PSV 1552 within the required intervals, in violation of 49 C.F.R. §§ 192.739 and 192.743. Section 192.739 requires each pressure limiting station, relief device, and pressure regulating station and its equipment to be inspected and tested at intervals not exceeding 15 months, but at least once each calendar year. Section 192.743 further requires pressure relief devices to be tested in place at the same intervals to determine that they have enough capacity to limit the pressure, and that if the test is not feasible, a review and calculation of the the relieving device's required capacity must be made.

Respondent did not dispute the allegations. Respondent explained that it had made an annual inspection of the cited relief devices but had exceeded the 15-month interval. Accordingly, I find that Respondent violated §§ 192.739 and 192.743.

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 a civil penalty not to exceed \$25,000 per violation for each day of the violation up to a maximum of \$500,000 for any related series of violations. The Notice proposed a total civil penalty of \$33,500.

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: nature, circumstances, and gravity of the violation, degree of Respondent's culpability, history of Respondent's prior offenses, Respondent's ability to pay the penalty, good faith by Respondent in attempting to achieve compliance, the effect on Respondent's ability to continue in business, and such other matters as justice may require.

As discussed above, because I have withdrawn the alleged violation of § 192.465(d)(Item 3), no civil penalty will be assessed.

Several of the violations involved Respondent's failure to conduct timely tests and inspections of pipeline facilities.

- C § 192.465(b) (Item 2) for failing to inspect rectifiers within the required interval.
- C § 192.477 (Item 4) for exceeding the required inspection interval at one valve box.
- C §§ 192.739 and 192.743 (Item 8) for exceeding the required inspection and testing intervals at two relief devices.

Inspecting and testing pipeline components and facilities at the required intervals are essential for an operator to know that the components and facilities are being maintained and will function properly to ensure the integrity of the pipeline system. However, the civil penalty will be mitigated to reflect that Respondent demonstrated that it had conducted timely rectifier inspections in 29 of the 51 cited instances and that the late valve box inspection was an isolated instance due to agricultural flooding.

Three of the violations involved shortcomings in Respondent's continuing education and emergency response programs.

- C § 192.13(c)(Item 1) for failing to run an ad in local newspapers in areas where it operates.

- C § 192.603(b) (Item 6) for not establishing and maintaining mutual liaison activities with certain public officials.
- C § 192.615(a)(Item 7) for not having procedures addressing the availability of personnel, equipment, tools and materials, as needed at the scene of an emergency.

Liaison with all public officials who may be involved in responding to a gas pipeline emergency and running ads as part of a continuing education program promote safety awareness. The ads, aimed at the public in Respondent's operating areas, help educate the public about recognizing and reporting a gas pipeline emergency. Liaison with those who may be called on to respond during a pipeline emergency helps ensure that the response will be effective. Liaison makes public officials aware of how an operator will respond during a gas pipeline emergency, and that the operator knows which agency to contact in a particular type of emergency. Liaison also helps the operator to gain knowledge about what information or expertise a particular agency could provide for the operator to promptly and adequately respond.

Procedures are essential to an operator's employees being able to perform their duties, so that their safety, as well as the public's, is not jeopardized during a gas pipeline emergency. Procedures ensure that employees will be able to respond in a manner that will minimize any hazard to the public.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$15,500.

**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 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.** After completing the wire transfer, send a copy of the **electronic funds transfer receipt** to the **Office of the Chief Counsel** (DCC-1), Research and Special Programs Administration, Room 8407, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590-0001.

**Questions** concerning wire transfers should be directed to: **Valeria Dungee**, Federal Aviation Administration, Mike Monroney Aeronautical Center, Financial Operations Division (AMZ-320), P.O. Box 25770, Oklahoma City, OK 73125; **(405) 954-4719**.

Failure to pay the \$15,500 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 4 C.F.R. § 102.13 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 an United States District Court.

#### COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 5, 6 and 7. As discussed above, I have withdrawn the alleged violation of § 192.603(b)(Item 5), and no further action will be needed. Further corrective action will be needed for the other Items.

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 hereby ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations.

1. Establish and maintain records that meet the requirements of 49 C.F.R. § 192.615(c) for establishing and maintaining liaison with police and other public officials.
2. Establish written procedures that meet the requirements of 49 C.F.R. § 192.615(a)(4) addressing the availability of personnel, equipment, tools and materials, as needed at the scene of an emergency.
3. Complete the above Items within 30 days following receipt of a Final Order.
4. Submit a copy of the completed procedures to the Regional Director, Western Region OPS, Golden Hills Center, Suite A-250, 12600 W. Colfax Ave., Lakewood, CO, 80215-3736.
5. The Regional Director may, upon request, grant an extension to comply with any of the required Items.

Failure to comply with this Final Order may result in the assessment of civil penalties of up to \$25,000 per violation per day, or in the referral of the case for judicial enforcement.



Under 49 C.F.R. § 190.215, Respondent has a right to petition for reconsideration of this Final Order. The petition must be received within 20 days of Respondent's receipt of this Final Order and must contain a brief statement of the issue(s). The filing of the petition automatically stays the payment of any civil penalty assessed. All other terms of the order, including any required corrective action, shall remain in full effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order are effective upon receipt.

\_\_\_\_\_/s/Richard B. Felder\_\_\_\_\_  
Richard B. Felder  
Associate Administrator  
for Pipeline Safety

Date: \_\_\_\_\_