

Mr. John R. Nyce
Vice President
Sun Pipe Line Company
10 Penn Center
1801 Market Street
Philadelphia, PA 19103

Re: CPF No. 12502

Dear Mr. Nyce:

The enclosed Amended Final Order supersedes the Final Order issued to Sun Pipe Line Company on December 31, 1996 in the above-referenced case. As you were informed during a telephone conversation on January 9, 1997 with Sherri Pappas of the Office of the Chief Counsel, the December 31, 1996 Final Order is being withdrawn, and no civil penalty is being assessed.

Due to a change in the definition of navigable waterway applicable to low stress pipelines, this Amended Final Order does not make a finding of violation with respect to the allegation concerning the pipeline crossing the Delaware River at Jacobs Creek.

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

This case is now closed. Thank you for your cooperation in our joint effort to ensure pipeline safety.

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

_____))
In the Matter of))
))
Sun Pipe Line Company,) CPF No. 12502
))
Respondent.))
_____)

AMENDED FINAL ORDER *

(* This Amended Final Order supersedes the Final Order issued December 31, 1996).

On November 19-22, 1991 and March 9-12, 1992, pursuant to 49 U.S.C. § 60117, a representative of the Office of Pipeline Safety (OPS), conducted on-site pipeline safety inspections of Respondent's facilities and records in Belle Meade, NJ (Hillsborough Maintenance) and Big Flats, NY (Big Flats Office). As a result of the inspections, the Director, (formerly Chief) Eastern Region, OPS, issued to Respondent, by letter dated June 25, 1992, a Notice of Probable Violation, Proposed Civil Penalty, and Notice of Amendment (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had committed two violations of 49 C.F.R. §§ 195.401(b), and proposed assessing a civil penalty of \$8,000 for the alleged violations. The Notice also proposed, in accordance with 49 C.F.R. § 190.237, that Respondent amend its procedures for Operations, Maintenance and Emergencies.

Respondent responded to the Notice by letter dated July 29, 1992. Respondent submitted additional responses on August 26, 1992 and July 8, 1993. Respondent contested one of the allegations and submitted information to explain the allegations and in mitigation of the proposed civil penalty. Respondent has not requested a hearing and therefore, has waived its right to one.

FINDING OF VIOLATION

The Notice alleged two violations of 49 C.F.R. § 195.401(b), which requires that an operator, upon discovering any condition that could adversely affect safe operation of its pipeline, correct the condition within a reasonable time. Item 1 alleged that in

August 1988, Respondent had conducted an underwater inspection of the 14-inch pipeline crossing the Delaware River at Jacobs Creek, discovered exposed pipe that could adversely affect the pipeline's safe operation, yet by November 1991, had not taken corrective action to address the condition.

Respondent disputed the allegation. Respondent said that it had researched this location and determined that the exposed portion of pipe is within Jacobs Creek, a non navigable waterway, and that 2/3 of the exposed pipeline is located within a culvert. Respondent further said that the exposed pipe has a thickness twice that of the main line, is encased inside 18-inch steel casing, and is coated with Somastic and concrete Hevicoat. Respondent maintained that the additional wall thickness, concrete Hevicoat and steel casing provide protection that exceeds the 18 inches of alternative soil cover allowed by the pipeline safety regulations.

Since the Notice was issued, OPS adopted a new definition of navigable waterway applicable to low stress pipelines as one that is navigable in fact and is currently used for commercial navigation. OPS has determined that the protection Respondent described is adequate for an exposed pipeline in a waterway that is not subject to commercial traffic. Accordingly, no finding of violation will be made with respect to the allegation concerning the pipeline crossing the Delaware River at Jacobs Creek.

Item 2 alleged that at the 6-inch pipeline crossing of the Susquehanna River, Respondent's underwater inspection in August 1988 had discovered approximately 110 feet of exposed pipe, yet by March 1992, Respondent had not initiated corrective action to address the exposure.

Respondent did not contest this allegation. Respondent explained that it had advanced this location's five-year underwater inspection, and used the information from this inspection to formulate corrective action to stabilize and repair the exposed pipe.

Accordingly, I find that Respondent violated 49 C.F.R. § 195.401(b). This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

ASSESSMENT OF PENALTY

At the time the Notice was issued, under 49 U.S.C. § 60122, Respondent was subject to a civil penalty not to exceed \$10,000 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 penalty of \$8,000.

As previously explained, the allegation concerning the pipeline crossing of the Delaware River at Jacobs Creek (Item 1) has been withdrawn and no penalty will be assessed.

With respect to the violation for Item 2, Respondent explained that it had advanced its five-year underwater inspection of this location, repaired the damaged coating and placed and anchored concrete mats over the exposed area. Due to Respondent's actions to repair and stabilize the exposed underwater pipeline crossing the Susquehanna River, no civil penalty will be assessed.

AMENDMENT OF PROCEDURES

The Notice alleged inadequacies in Respondent's Operations, Maintenance and Emergencies Manual and proposed to require amendment of Respondent's procedures to comply with the requirements of 49 C.F.R. § 195.402(c)(6). Respondent submitted copies of its procedures addressing conditions creating potential hazards to the public. The Director, Eastern Region, OPS has accepted these procedures as adequate to assure safe operation of Respondent's pipeline system. Accordingly, no need exists to issue an order directing amendment.

Richard B. Felder
Associate Administrator
for Pipeline Safety