

Mr. Ronald L. Adams  
Vice President - Pipeline Operations  
Transcontinental Gas Pipe Line Corporation  
2800 Post Oak Boulevard  
P.O. Box 1396  
Houston, Texas 77251-1396

Re: CPF No. 25102

Dear Mr. Adams:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$1,000. 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  
OFFICE OF PIPELINE SAFETY  
WASHINGTON, DC 20590

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In the Matter of )  
 )  
Transcontinental Gas Pipe ) CPF No. 25102  
Line Corporation )  
 )  
Respondent )  
\_\_\_\_\_ )

FINAL ORDER

On September 6 - 29, 1994, 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 Mississippi, Alabama, Georgia, South Carolina and North Carolina. As a result of the inspection, the Director, Southern Region, OPS, issued to Respondent, by letter dated February 1, 1995, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had violated 49 C.F.R. § 199.19(b) and proposed assessing a civil penalty of \$1,000 for the alleged violation.

Respondent responded to the Notice by letter dated February 22, 1995 (Response). Respondent contested the allegation, offered information to explain the allegations and requested mitigation of the proposed civil penalty. Respondent has not requested a hearing and therefore, has waived its right to one.

FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. § 199.19(b), which requires the display and distribution of: a copy or summarization of the employee assistance program (EAP); a hotline telephone number; and the employer's policy regarding the use of prohibited drugs. At the time of the inspection, the OPS inspector found that the Respondent had on display the EAP phone number, however, did not have on display a prohibited drugs policy.

Respondent argued that it does display an EAP poster which contains a hotline telephone number, and a Search and Seizure Policy which prohibits possession, use and consumption of controlled substances, drugs, and alcohol, on or around its property. Respondent stated that it believed these two documents fully satisfied the pipeline safety requirements.

After a review of Respondent's Search and Seizure Policy, I find that it does not provide adequate information to substitute for a policy regarding the use of prohibited drugs. Respondent's Search and Seizure Policy fails to:

- (1) notify employees that they are subject to testing under the authority of 49 C.F.R. Part 199;
- (2) notify employees of the six types of tests they may be subject to;
- (3) notify employees of the different drugs they would be tested for;
- (4) notify employees that the testing procedures are done in accordance with 49 C.F.R. Part 40; and
- (5) notify employees of the outcome of testing positive for any of those drugs - removal from a covered function.

The policy regarding the use of prohibited drugs should basically contain a summary of the information contained in Respondent's anti-drug plan. In this case, important information is missing.

Accordingly, I find that Respondent violated 49 C.F.R. § 199.19(b). This finding of violation will be considered a prior offense 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 civil penalty of \$1,000. 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.

Respondent's failure to adequately display a prohibited drugs policy deprives its employees of on-site information necessary to assess their rights and responsibilities. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$1,000.

**Payment of the civil penalty must be made within 20 days of service.** Payment can be made by sending a certified check or money order (containing the CPF Number for this case) payable to " U.S. Department of Transportation" to the Federal Aviation Administration, Mike Monroney Aeronautical Center, Financial Operations Division (AMZ-320), P.O. Box 25770, Oklahoma City, OK 73125.

Federal regulations (49 C.F.R. § 89.21(b)(3)) also permit 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 8405, U.S. Department of Transportation, 400 Seventh Street, S.W., 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 \$1,000 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.

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

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Richard B. Felder  
Associate Administrator Pipeline Safety

Date: 10/20/98