Us. Department of Transportation

**Research and
Special Programs
Administration**

JAN 22, 1997

Mr. Thomas McCaleb
President, Koch Pipeline Company, L.P.
P.O. Box 2256
Wichita, Kansas 67220-3203

RE: CPF No.45517

Dear Mr. McCaleb:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violations. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. §190.5.

In the event Koch Pipeline Company, L.P. does not petition for reconsideration of this Final Order, this case will be closed at the expiration of the 20 day petition period and no further correspondence will follow. Thank you for your cooperation in our joint effort to ensure pipeline safety.

Sincerely,

Gwendolyn M. Hill
Pipeline Compliance Registry
Office of Pipeline Safety

<u>CERTIFIED</u> <u>MAIL</u> - <u>RETURN</u> <u>RECEIPT</u> <u>REQUESTED</u>

In the Matter of	)	
	)	
Koch Pipeline Company, L.P.	)	CPF No.45517
	)	
Respondent.	)	
	)	

FINAL ORDER

During the week of November 7, 1995, 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 between the Red River and Cushing, Oklahoma, and Respondent's records in Duncan, Oklahoma and Cushing, Oklahoma. As a result of the inspection, the Director, Southwest Region, OPS issued to Respondent, by letter dated December 7, 1995, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. §190.207, the Notice proposed finding that Respondent had committed violations of 49 C.F.R. Parts 195. The Notice also proposed that Respondent take certain measures to correct the alleged violations.

Respondent responded to the notice by letters dated January 9 and February 6, 1996. Respondent contested alleged violation #1 in the Notice, but did not contest alleged violation #2 in the Notice. Respondent did not request a hearing, and therefore, has waived its right to one.

FINDINGS OF VIOLATION

Respondent did not contest item #2 in the Notice. Accordingly, I find that Respondent committed the following violation of 49 C.F.R. Part 195 as more fully described in the Notice:

49 C.F.R. §195.402(a)-- failing to follow Respondent's written procedures manual for operations, maintenance, and emergencies.

Item #1 in the Notice alleged Respondent violated 49 C.F.R. §195.202 by failing to use stud bolts on flanges containing insulating kits which were of sufficient length to penetrate the nuts, as specified in paragraph 408.5.1(a) of ASME/ANSI B31.4, at Respondent's Ryan pump station. 49 C.F.R. § 195.202 requires that each pipeline system be constructed in accordance with

comprehensive written specifications~or standards that are consistent with the requirements of 49 C.F.R. Part 195. 49 C.F.R. §195.3(c)(3)(ii) incorporates ASME/ANSI B31.4 by reference into 49 C.F.R. Part 195; therefore, ASME/ANSI B31.4 is deemed to be a written specification or standard consistent with the requirements of 49 C.F.R. Part 195.

Respondent agreed that its Ryan pump station did not meet the above referenced standard, and agreed to take action to bring the Ryan pump station into compliance with the standard.

Respondent did, however, challenge OPS' authority to mandate compliance with paragraph 408.5.1(a) of ASME/ANSI B31.4. Respondent claimed that it had been unable to determine whether ASME/ANSI B31.4 had been incorporated by reference into 49 C.F.R. Part 195 in its entirety, or whether only specific portions of the standard had been incorporated.

The first two sentences of 49 C.F.R. §195.3(a) read as follows:

> Any document or portion thereof incorporated by reference in this part is included in this part as though it were printed in full. When only a portion of a document is referenced, then this part incorporates only that referenced portion of the document and the remainder is not incorporated.

49 C.F.R. § 195.3(a) clearly contemplates that there will be documents which will be only partially incorporated into 49 C.F.R. Part 195, but by its own terms requires that in such cases only the portion of the document to be incorporated will be referenced by the regulations. Where a regulation references a document, rather than a specific portion of a document, the document is incorporated in its entirety. 49 C.F.R. §195.3(c)(3)(ii) references ASME/ANSI B31.4; it does not merely reference a portion of ASME/ANSI B3 1.4. Therefore, based on the guidance found in the first two sentences of 49 C.F.R. §195.3(a), ASME/ANSI B31.4 is incorporated into 49 C.F.R. Part 195 in its entirety.

Accordingly, I find that Respondent violated 49 C.F.R. §195.202 by failing to use stud bolts on flanges containing insulating kits which were of sufficient length to penetrate the nuts, as specified in paragraph 408.5.1(a) of ASME/ANSI B31.4, at Respondent's Ryan pump station.

These findings will be considered prior offenses in any subsequent enforcement action against Respondent.

COMPLIANCE ORDER

The notice proposed a compliance order. Respondent has demonstrated corrective action addressing the items in the proposed compliance order. The Director, Southwest Region, OPS has accepted these measures as adequately fulfilling the requirements of the regulations and no further action is needed with respect to a compliance order.

Under 49 U.S.C. *§~90.215,* 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). In accordance with 49 C.F.R. §190.215(d), filing the petition does not stay the effectiveness of this Final Order. However, in the petition Respondent may request, with explanation, that the Final Order be stayed. The terms and conditions of this Final Order are effective upon receipt.

Richard B. Felder
Associate Administrator
   For Pipeline Safety

Date Issued: January 22, 1997