

Mr. Bill Cronk
Senior Vice-President of Operations
Mid-America Pipeline Company
1800 south Baltimore Avenue
P.O. Box 645
Tulsa, Oklahoma 74101-0645

RE: CPF No. 54507

Dear Mr. Cronk:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes a finding of violation, assesses a civil penalty of \$2,000, and acknowledges the revision of certain operations, maintenance and emergency procedures. I acknowledge receipt of, and accept your check (No. 61-069472028) in the amount of \$2,000 issued on April 8, 1994, as payment in full of the civil penalty assessed in the Final Order. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Based on the recommendation of the Director, Western Region, this case is now closed and no further enforcement action is contemplated with respect to the matters involved in the case. 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
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590

In the Matter of)
)
Mid-America Pipeline Co.,) CPF No. 54507
)
Respondent.)
_____)

FINAL ORDER

On July 21, 1993 and November 15, 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 Rock Springs, Wyoming and Farmington, New Mexico, respectively. As a result of the inspection, the Director, Western Region, OPS, issued to Respondent, by letter dated March 8, 1994, 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 violated 49 C.F.R. § 195.412(a), and proposed assessing a civil penalty of \$3,000, \$1,000 for each of the three incidents stated in the Notice for the alleged violation of §195.412(a). 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 April 8, 1994 (Response). Respondent did not contest the allegation of violation, however, did present documentation indicating the existence of only two incidents. Respondent enclosed a check for \$2,000 for the payment of the civil penalty.

FINDING OF VIOLATION

The Notice alleged that Respondent was in violation of 49 C.F.R. § 195.412(a) for failing to inspect its right-of-way within the three week interval prescribed by the regulation on three occasions in 1990 and 1991. Section 195.412(a) requires each operator to inspect the surface conditions on or adjacent to each pipeline right-of-way at intervals not exceeding 3 weeks, but at least 26 times each calendar year.

In its Response, Respondent did not deny that it failed to conduct two of the three right-of-way inspections during the specified intervals, but contended that one of the three right-of-way inspections was performed within the required interval of time. Respondent submitted documentation in mitigation of the proposed penalty. In reviewing the documentation provided by Respondent, OPS is withdrawing its allegation with respect to this count of the alleged violation. However, with respect to the other two counts, I find Respondent in violation of 49 C.F.R. § 195.412(a).

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. 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 is a hazardous liquid pipeline operator transporting highly volatile liquids (HVLs). Conducting right-of-way inspections is particularly important given the fact that the Respondent's pipeline transports HVLs through areas which have public and environmental concerns. Accordingly, having reviewed the record and considered the assessment criteria, I assess a civil penalty of \$2,000, which has already been paid by Respondent.

AMENDMENT OF PROCEDURES

The Notice alleged an inadequacy 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)(4).

In its Response, Respondent submitted copies of its amended procedures, which the Director, Western Region, OPS has accepted as adequate to assure safe operation of Respondent's pipeline system. Accordingly, no need exists to issue an order directing amendment.

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.

Failure to comply with any aspect of this Final Order, including the Amendment, 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.

Richard B. Felder
Associate Administrator for Pipeline Safety

Date Issued: 07/31/1197