

Mr. John S. Dayton
Senior Vice President
Operations and Engineering
Alyeska Pipeline Service Company
1835 South Bragaw Street
Anchorage, Alaska 99512

Re: CPF No. 54517

Dear Mr. Dayton:

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 \$12,500. 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

cc Margaret S. Jones
Senior Attorney
MS 569

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DEPARTMENT OF TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
WASHINGTON, DC

_____))
In the Matter of))
Alyeska Pipeline Service Company,) CPF No. 54517
Respondent.)
_____))

FINAL ORDER

Pursuant to 49 U.S.C. § 60117, a representative of the Office of Pipeline Safety (OPS), initiated an investigation of Respondent's report of an unintended movement of a remote gate valve (RGV) on Respondent's pipeline system in Alaska that had occurred on August 27, 1994. As a result of the investigation, the Director, Western Region, OPS, issued to Respondent, by letter dated October 20, 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. §§195.402 and 195.403 and proposed assessing a civil penalty of \$70,000 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 November 23, 1994 (Response). Respondent contested the allegations, offered information to support its position, and requested a hearing that was held in the Western Region, OPS on October 29, 1993. After the hearing, Respondent submitted a Closing Statement dated February 16, 1995 (Closing Response).

FINDINGS OF VIOLATION

Item 1 in the Notice alleged that Respondent had committed several violations of 49 C.F.R. § 195.402 during its annual communications antenna alignment on RGV 39.

This regulation requires that an operator prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies.

The Notice first alleged (Item 1a) that Respondent's procedures required that changes to documents be approved by the same functional authority that approved the original document (procedure QA-36S, Sec. 8 (Rev.7)), but that changes to the procedure to de-energize remote gate valves (procedure 1.01.01) had not been made in accordance with the modification procedure. Respondent agreed that a local supervisor had inappropriately modified the RGV de-energizing procedure, but that the modification procedure was an internal administrative procedure, not an operating and maintenance procedure required by § 195.402. Respondent further maintained that although the supervisor had not followed internal procedure he had, in accordance with § 195.402, modified the de-energizing procedure to make it safer.

No evidence was presented to counter Respondent's assertion that the modification procedure was an internal administrative procedure, not an operating and maintenance procedure within the scope of § 195.402. Accordingly, the allegation of violation is withdrawn.

The second allegation (Item 1b) was that when Respondent's personnel were performing the antenna alignment on RGV 39, they did not follow the original procedure for de-energizing RGVs, which, unlike the modified procedure, did not allow for depressing the close button to verify it was de-energized. Respondent agreed that its technicians had followed the modified procedure but argued that this allegation simply duplicated the first.

This allegation, although a complement of the first, is for a separate action: Respondent's not following an approved operating and maintenance (O&M) procedure for de-energizing RGVs. The failure to follow an approved O&M procedure was due to Respondent's personnel not following an internal administrative procedure in modifying the O&M procedure. Each constitutes a separate allegation of violation. Although Respondent's personnel followed what they believed to be the current O&M procedure for de-energizing RGV 39, the procedure had not been officially sanctioned and thus, was not part of Respondent's O&M procedures. Accordingly, I find that Respondent committed this violation of 49 C.F.R. § 195.402.

The Notice's third allegation (Item 1d) concerning § 195.402 was that Respondent's Operations Control Center (OCC) controller did not follow the procedure to idle the pumps upstream when it received the in transit alarm. Respondent maintained that the controller followed another operating procedure, which allowed him to take

certain exceptions during maintenance activity. Respondent further argued that the OCC controller's decision to follow this other procedure was correct because the pipeline was not overpressured.

For the exception to apply, field personnel were to have advised the controller that they would be causing status changes due to maintenance being performed. This did not occur. The OCC controller may have followed, what he believed to have been a logical course of action, and he may have been fortunate in that the actions he took did not result in an overpressure. However, the course of action he took was not allowed by Respondent's O&M procedures. Accordingly, I find that Respondent committed this violation of 49 C.F.R. § 195.402.

Item 2 alleged that Respondent had violated 49 C.F.R. § 195.403(c), which requires that an operator require and verify that its supervisors maintain a thorough knowledge of that portion of the procedures established under §195.402 for which they are responsible. The Notice alleged that Respondent's supervisor did not have knowledge of the modification procedure (QA-36S, Sec. 8 (Rev.7)).

Respondent agreed that the supervisor had not been adequately trained in the procedure for how to modify an O&M procedure, but re-stated that this was an administrative procedure for which training is not required under the pipeline safety regulations. As discussed in Item 1a, the record does not support finding that the modification procedure was an O&M procedure in which the pipeline safety regulations require a supervisor to be trained. Accordingly, the allegation of violation is withdrawn. However, whether required or not, Respondent should ensure that its personnel are well versed in administrative, as well as operating and maintenance procedures, to prevent further unauthorized modifications that could impact pipeline safety.

These findings of violation (Items 1b, 1d) 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 \$70,000.

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.

The Notice proposed penalties of \$10,000 for violation of 49 C.F.R. 195.402 (Item 1a) and \$25,000 for violation of 49 C.F.R. § 195.403(c) (Item 2). As discussed above, these allegations are withdrawn and no penalties will be assessed.

The remaining violations both concerned the failure to follow procedures. To protect their safety and the integrity of the pipeline system, it is important that an operator's employees follow procedures when performing maintenance on a pipeline. However, I recognize that Respondent's first violation of § 195.402 (Item 1b) was due to personnel following a modified O&M procedure that they did not know had not been officially approved.

The second violation of § 195.402 (Item 1d) was for the failure of the OCC controller to follow an O&M procedure. Procedures that an operator has included in its written O&M plan have been developed and adopted as the most appropriate method for conducting operations and maintenance activities on its pipeline system. Procedures for conducting an operation or maintenance activity have been established with a view toward how that activity affects other parts of the pipeline system. Thus, an employee's deviation from a standard procedure could adversely affect other parts of the system. Furthermore, others following the standard procedure may not be aware of a deviation and may not respond appropriately. If Respondent continues to believe that the steps the controller took were logical and should become part of its standard operating procedures, Respondent should amend its written O&M procedures.

Respondent also argued that although the underlying event (the unintended valve movement) was not a reportable event, Respondent disclosed the event in the spirit of cooperation and should not be penalized for so doing. OPS cannot agree to not bring compliance action based on how information about probable safety violations comes to its attention. However, the Region has recommended that Respondent's cooperation be considered in assessing a civil penalty. Respondent has taken steps to prevent similar recurrences, such as now requiring personnel at each valve location during future antenna alignments.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$12,500.

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 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 \$12,500 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.

AMENDMENT OF PROCEDURES

The Notice (Item 1c) alleged inadequacies in Respondent's Operations, Maintenance and Emergencies Manual and proposed to require amendment of Respondent's RGV de-energizing and re-energizing procedure to include a step to cancel the test closure.

Respondent explained that during future antenna alignments, in lieu of this procedure, it will require personnel at each valve location. Respondent also advised that it had modified the procedure, and might again implement it. Respondent submitted a copy of this amended procedure, 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). 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: 04/03/1997