



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety Administration**

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400 Seventh Street, S.W.
Washington, D.C. 20590

JUL 26 2006

Mr. Randy Parker
Managing Partner
Mustang Pipe Line Partners
800 bell Street, Room EMB-6471
Houston, TX 77002

Re: CPF No. 3-2005-5013

Dear Mr. Parker:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$1,000. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon payment. Your receipt of the Final Order constitutes service of that document under 49 C.F. R. § 190.5.

Sincerely,

James Reynolds
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

Cc: Ivan A. Huntoon
Director, Central Region, PHP-300

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

**DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

In the Matter of

Mustang Pipe Line Partners,

Respondent

CPF No. 3-2005-5013

FINAL ORDER

On May 11-14, 2004, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety (OPS) conducted an on-site pipeline safety inspection of an 18-inch pipeline system in Patoka, Illinois, and a 30-inch pipeline system in Moneka and Joliet, Illinois. As a result of the inspection, the Director, Central Region, OPS, issued to Mobil Pipe Line Company (MPLCo), by letter dated March 2, 2005, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that MPLCo had committed violations of 49 C.F.R. Part 195, and proposed assessing a civil penalty of \$11,000 for the alleged violations.

MPLCo responded to the Notice by letter dated March 31, 2005. In its response, MPLCo clarified that, as operator of the 30-inch line, it was responding to the portions of the Notice relating to that line, and that Mustang Pipe Line Partners (MPLP), as operator of the 18-inch line, had agreed to respond to the portions of the Notice relating to that line.¹ By letter dated March 31, 2005, MPLP responded to the portions of the Notice relating to the 18-inch line. MPLP did not contest Item 1 in the Notice, but did contest Item 2 in part.

FINDING OF VIOLATION

Item 2 in the Notice alleged that Respondent violated 49 C.F.R. § 195.579(b)(3) by failing to examine a corrosion monitoring coupon at the Patoka tank farm at least twice each calendar year, but with intervals not exceeding 7 1/2 months. Specifically, the Notice alleged that the specified corrosion coupon was examined only once in 2002 and only once in 2003. In its response, Respondent acknowledged that it was unable to verify that the coupon had been examined a second time in 2002. Respondent, however, provided documentation demonstrating that the coupon had been examined twice in calendar year 2003. Accordingly, I find that Respondent

¹ A separate Final Order addressed to MPLCo relating to the 30-inch line will be issued concurrently with this Final Order.

violated 49 C.F.R. § 195.579(b)(3) by failing to examine the corrosion monitoring coupon at the Patoka tank farm twice during calendar year 2002.

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 \$100,000 per violation for each day of the violation up to a maximum of \$1,000,000 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.

With respect to Item 2, the Notice proposed a civil penalty of \$11,000 for failure to conduct twice yearly examinations of coupon used to monitor corrosion inhibitors. Of this \$11,000, \$2,000 related to MPLP's alleged failure to examine the coupon at the Patoka tank farm a second time during 2002 and 2003. As discussed above, Respondent provided evidence that this coupon had been examined a second time in 2003. Therefore, I find that a proportional reduction in the penalty amount proposed in the Notice as to MPLP is warranted. Accordingly, I assess Respondent a civil penalty of \$1,000 for violating 49 C.F.R. § 195.579(b)(3) by failing to examine the specified coupon at the Patoka tank farm twice during calendar year 2002. Respondent has the ability to pay this penalty without adversely affecting its ability to continue in business.

Payment of the civil penalty must be made within 20 days of service. Payment may 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-300), P.O. Box 25082, 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. Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-300), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125; (405) 954-8893.

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, 31 C.F.R. § 901.9 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 a United States District Court.

WARNING ITEM

The Notice did not propose a civil penalty or corrective action for Item 1 in the Notice—Respondent's failure to update its maps with utility crossing information in accordance with 49 C.F.R. § 195.404(a)(2). Therefore, this is considered to be a warning item. Respondent presented information in its response showing that it has taken action to address the cited item. Respondent is warned that if it does not correct this item, enforcement action will be taken if a subsequent inspection reveals a violation.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a petition for reconsideration of this Final Order. Should Respondent elect to do so, 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 a petition automatically stays the payment of any civil penalty assessed. However if Respondent submits payment for the civil penalty, the Final Order becomes the final administrative decision and the right to petition for reconsideration is waived. The terms and conditions of this Final Order are effective on receipt.


for Stacey Gerard
Associate Administrator
for Pipeline Safety

JUL 10 2006

Date Issued