APR 17 2009

Mr. Rodney H. Ficken, Manager
Cook Inlet Pipe Line Company
909 West 9th Avenue
Anchorage, AK 99501

Ms. Rebecca Roberts, President
Chevron Pipe Line Company
4800 Fournace Place, Room E328F
Bellaire, TX 77401

Re: CPF No. 5-2004-5025

Dear Mr. Ficken and Ms. Roberts:

Enclosed is the Final Order issued in the above-referenced case. It withdraws most of the allegations of violation and all proposed civil penalties, makes a finding of violation, and specifies certain actions that need to be taken by the current operator of the Cook Inlet Pipe Line, Chevron Pipe Line Company, to comply with the pipeline safety regulations. The Final Order also makes a finding of inadequate procedures and requires amendment of certain Integrity Management Program procedures.

When the terms of the compliance order have been completed and the procedures satisfactorily amended, as determined by the Director, Western Region, this enforcement action will be closed. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5. Please note that originals of the Final Order are being sent to both Cook Inlet Pipe Line Company and Chevron Pipe Line Company.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Chris Hoidal, Director, Western Region, PHMSA

CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7005 1160 0001 0047 7049]

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

In the Matter of	)	
Cook Inlet Pipe Line Company, Respondent,	)	**CPF No. 5-2004-5025**
and	)	
Chevron Pipe Line Company.	)	

FINAL ORDER

On December 4-5, 2003, pursuant to 49 U.S.C. § 60117, a representative of the Research and Special Programs Administration (RSPA)[1], Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the Integrity Management Program (IMP) of Cook Inlet Pipe Line Company (CIPL or Respondent) at its offices in Anchorage, Alaska. The CIPL pipeline system includes a 20-inch crude oil pipeline running approximately 42 miles between the Granite Point Tank Farm and the Drift River Terminal and a 12-inch pipeline connecting the 20-inch line to the West Foreland pump station. The system is located on the west side of Cook Inlet in Alaska. In 2006, PHMSA was notified that Chevron Pipe Line Company (Chevron), the co-owner of CIPL, now operates the facilities that are the subject of this proceeding.

As a result of the inspection, the Director, Western Region, OPS (Director), issued to CIPL, by letter dated August 31, 2004, a Notice of Probable Violation, Proposed Civil Penalty, Proposed Compliance Order, and Notice of Amendment (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that CIPL committed certain violations of 49 C.F.R. § 195.452, proposed assessing a civil penalty of **$19,000** for the alleged violations, and proposed ordering CIPL to take certain measures to correct the alleged violations. The Notice also proposed, in accordance with 49 C.F.R. § 190.237, that Respondent be required to amend its IMP procedures. Finally, the Notice proposed finding that the company had committed certain IMP procedures. Finally, the Notice proposed finding that the company had committed certain other probable violations of 49 C.F.R. § 192.452 and warning it to take appropriate corrective action or be subject to future enforcement action. By letter dated September 21, 2004, CIPL requested and subsequently received additional time to respond to the Notice. CIPL responded to the Notice by letter dated October 28, 2004 (Response), providing information on its IMP, contesting all of the

[1] On November 30, 2004, the Norman Y. Mineta Research and Special Programs Improvement Act, Pub. L. No. 108-426, 118 Stat. 2423, created the Pipeline and Hazardous Materials Safety Administration (PHMSA) and transferred the authority of RSPA exercised under chapter 601 of title 49, United States Code, to the Administrator of PHMSA. See also, 70 Fed. Reg. 8299, 8301-8302 (2005) (delegating authority to the Administrator of PHMSA).

allegations, and requesting a hearing. A hearing was subsequently held on May 5, 2005, in Anchorage, Alaska, with an attorney from the Office of Chief Counsel, PHMSA, serving as presiding official.

FINDING OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 195, as follows:

Item 1(f): The Notice alleged that CIPL violated 49 C.F.R. § 195.452(f)(1), which states:

> **§ 195.452 Pipeline integrity management in high consequence areas.**
> (a)….
> (f) *What are the elements of an integrity management program?* An integrity management program begins with the initial framework. An operator must continually change the program to reflect operating experience, conclusions drawn from results of the integrity assessments, and other maintenance and surveillance data, and evaluation of consequences of a failure on the high consequence area. An operator must include, at minimum, each of the following elements in its written integrity management program:
> (1) A process for identifying which pipeline segments could affect a high consequence area;…

The Notice alleged that Respondent violated 49 C.F.R. § 192.452(f)(1) by failing to include in its IMP an adequate process for identifying which pipeline segments in its system "could affect" a High Consequence Area (HCA).[2] Specifically, the Notice alleged that CIPL did not provide sufficient justification that a spill from the CIPL pipeline could not affect a commercially navigable waterway HCA in Cook Inlet. Certain shipping lanes within Cook Inlet have been identified as part of a commercially navigable waterway HCA.

CIPL used a 1991 spill modeling report (1991 Report) as the basis for identifying whether any of its pipeline segments could affect this commercially navigable waterway HCA.[3] The Notice alleged that the 1991 Report failed to show that the Company's pipeline system could not affect this commercially navigable waterway HCA because it: (1) failed to address oil dispersion characteristics in certain conditions; (2) only addressed near-shore oil migration and failed to effectively address open-water oil migration in outgoing tides during adverse weather conditions; (3) was indeterminate with regard to oil dispersion patterns; and (4) failed to include worst-case conditions in the model input parameters, and instead, included subjective assumptions for tidal influence, average flow speed, wind conditions, direction of net circulation, etc.

---

[2] The process of identifying pipeline segments that "could affect" HCAs is the first step in establishing the initial framework of an IMP. An HCA is defined as: (1) a *commercially navigable waterway*, which means a waterway where a substantial likelihood of commercial navigation exists; (2) a *high population area*, which means an urbanized area, as defined and delineated by the Census Bureau, that contains 50,000 or more people and has a population density of at least 1,000 people per square mile; (3) an *other populated area*, which means a place, as defined and delineated by the Census Bureau, that contains a concentrated population, such as an incorporated or unincorporated city, town, village, or other designated residential or commercial area; (4) an *unusually sensitive area*, as defined in § 195.6. See, 49 C.F.R. § 195.450.

[3] Notice, at 2. CIPL provided OPS with a copy of an April 15, 1991, report, entitled "Cook Inlet Spill Prevention and Response Inc., Spill Modeling, Technical Manual P10."

In its Response, CIPL argued that it did not need to have an IMP because its analyses indicated that its pipeline could not affect any HCAs. CIPL explained that it relied upon the advice of planners and scientists familiar with spill modeling, in conjunction with the 1991 report, as the basis for determining that "oil spilled at CIPL's facilities would not impact the shipping lanes in Cook Inlet."[4] CIPL also provided an email from an employee of Cook Inlet Spill Prevention & Response, Inc. (CISPRI), as further evidence that the shipping lanes would not be impacted.[5] The email simply stated, without any analysis, that spilled oil would be caught in rip tides and would not impact the shipping lanes.

Inherent in the process for determining whether a pipeline segment could affect an HCA is the need for a rigorous analysis that considers a wide range of parameters and conditions. If certain types of weather, tidal or other conditions are not fully considered, "could-affect" pipeline segments might be overlooked.

During the hearing, CIPL repeated the statements in the CISPRI email and made conclusory statements that various experts believed spilled oil would not reach the shipping lanes due to the effect of rip tides.[6] CIPL neither addressed OPS' allegations that the company did not account for a full range of tidal, weather and other conditions necessary to understand where spilled oil could go, nor provided any technical support or analysis for its position. Furthermore, the company's own 1991 Report contradicts the company's position by noting that "tidal rips have only limited and local effects for spills during high wind events."[7] Also, at the hearing, CIPL acknowledged that it only used "typical wind and tidal conditions" in its spill modeling.[8]

Accordingly, upon consideration of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(f)(1) by failing to include in its IMP an adequate process for identifying which CIPL pipeline segments could affect an HCA.

WITHDRAWAL OF ALLEGATIONS

Items 1(a), 1(b), 2, 3(a), 3(b), 3(c), 3(d), 4(a), 4(b), 5(a), 5(b), 5(c), 6, 7(a) and 7(b) proposed that CIPL violated numerous requirements of 49 C.F.R. § 195.452, by failing to properly develop and implement an IMP, as more fully described in the Notice.

In its Response and at the hearing, CIPL argued that all of the Items in the Notice should be withdrawn because none of its pipeline segments could affect an HCA and therefore the company did not need to have an IMP at all. CIPL argued that its risk assessment showed that its pipelines could not affect any of the numerous HCAs located near Cook Inlet. Pursuant to § 195.452(a), only pipeline segments that "could affect" an HCA must be included in an operator's IMP.

The Director has reviewed the information and analyses provided by CIPL and has recommended withdrawal of the above-listed Items. CIPL presented convincing evidence that, at the time of the inspection, its pipeline could not affect the Tyonek Other Populated Area (OPA) HCA and certain

[4] Response, at 7.
[5] November 25, 2003 email from Victoria Askin (CISPRI) to James A. Shew (CIPL).
[6] CIPL Hearing Presentation, at 13.
[7] 1991 Report, at 5.
[8] Id.

drinking-water Unusually Sensitive Area (USA)[9] HCAs, as addressed in Items 1(a) and 1(b), respectively. Items 2 through 7 in the Notice were all based upon the assumption that CIPL operated one or more pipeline segments that "could affect" HCAs.

On the basis that CIPL has shown that its pipeline could not affect the OPA and USA HCAs described above, and because there is uncertainty about whether other HCAs could be affected, I order that Notice Items 1(a), 1(b), 2, 3(a), 3(b), 3(c), 3(d), 4(a), 4(b), 5(a), 5(b), 5(c), 6, 7(a) and 7(b) be withdrawn. However, if Respondent's continuing risk assessment shows that any of its pipeline segments could affect an HCA, the requirements addressed in these withdrawn items, as well as other IMP requirements, may need to be addressed.

Although CIPL has shown that its pipeline could not affect *certain* HCAs, the company has not shown that the pipeline might not affect other HCAs or that it need not have an IMP. CIPL's processes for identifying which pipeline segments could affect an HCA remain inadequate. Respondent must therefore conduct further analyses and amend its procedures, as discussed more fully below.

WITHDRAWAL OF PENALTIES

Under 49 U.S.C. § 60122, Respondent is subject to an administrative 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: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; the Respondent's ability to pay the penalty and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require.

The Notice proposed a total civil penalty of $19,000 for various violations of 49 C.F.R. § 195.452, for Respondent's failure to properly develop and implement an IMP, as more fully described in the Notice. Except for Item 1(f), all of the allegations of violation with associated penalties have been withdrawn.

Regarding Item 1(f), Respondent violated § 195.452(f)(1) by failing to include in its IMP an adequate process for identifying which pipeline segments could affect an HCA. In its Response and at the hearing, Respondent presented credible information showing that it had made a good faith effort to comply with the regulation. Although its spill modeling was inadequate, Respondent conscientiously performed a thorough assessment of the potential effects that its pipeline could have on the OPA and drinking water HCAs. Based upon such efforts, I find that it is appropriate to withdraw the proposed penalty for Item 1(f).

[9] USA means a drinking water or ecological resource area that is unusually sensitive to environmental damage from a hazardous liquid pipeline release. 49 C.F.R. § 195.6. The regulation includes additional detailed information and definitions on USAs.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1(a), 1(b), 1(f), 2, 3(a), 3(b), 4(a), 5(a), 5(c), 6 and 7(a) in the Notice for violations of 49 C.F.R. § 195.452. Except for Item 1(f), all of the associated allegations of violation have been withdrawn. As the current operator of the CIPL pipeline facility, Chevron is responsible for the compliance requirements set out below.

Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Chevron is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations. Regarding **Notice Item 1(f)**, Chevron must —

1. Update its oil spill models and procedures for identification of segments that could affect HCAs by taking into account a full variety of weather, tidal and other conditions.

2. On the basis of the updated spill models and other revised IMP procedures, identify and include in its IMP all pipeline segments that could affect the commercially navigable waterway or any other HCA in Cook Inlet.

3. Within 60 days of receipt of this Final Order, perform the work listed above and submit documentation and revised procedures to the Director, Western Region, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 12300 West Dakota Ave., Suite 110, Lakewood, Colorado 80228.

4. Maintain documentation of the costs associated with fulfilling this compliance order and submit the total to the Director, Western Region, OPS.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent demonstrating good cause for an extension.

Failure to comply with this Order may result in administrative assessment of civil penalties not to exceed $100,000 for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

AMENDMENT OF PROCEDURES

The Notice alleged inadequacies in Respondent's IMP procedures and proposed to require amendment of the company's procedures to comply with the requirements of 49 C.F.R. § 195.452(f)(1). As the current operator of the CIPL pipeline facility, Chevron is responsible for making the amendments set forth below.

Notice **Item 1(d)** alleged that CIPL's processes and procedures failed to specify how the company would utilize feedback from field activities that could potentially result in the identification of new or extended "could affect" pipe segments. Field activities can identify population growth along the pipeline, stream flooding, earthquake damage, and other changes that potentially affect whether a

pipeline segment could affect an HCA. In its Response, CIPL stated that it would review and revise its IMP procedures accordingly.

Notice **Item 1(e)** alleged that CIPL's IMP procedures were inadequate because they did not include a sensitivity analysis based on a range of pipeline break sizes and response times for the 12 streams crossed by the CIPL pipeline system. The Notice stated that such analysis was required in order to conservatively assess possible spill volumes and the spread of any spills that reached Cook Inlet. This analysis is necessary in order to determine whether the pipeline could affect any Cook Inlet HCAs. In its Response, CIPL stated that it would review and revise its IMP procedures accordingly.

Although the company agreed to modify its procedures, CIPL argued that amendments to its procedures were not required because it did not need to have an IMP. As discussed above, I have found that CIPL needs to conduct an adequate risk assessment to determine whether it has any "could affect" segments.

Accordingly, I find that CIPL's procedures were inadequate to assure safe operation of its pipeline system. Pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. § 190.237, Chevron is ordered to make the following changes to its procedures affecting Cook Inlet Pipe Line. Chevron must—

1. Amend its IMP procedures to specify how the company will incorporate information from field operations and other information sources into the IMP; and which company personnel are responsible for gathering and integrating such information, and communicating it to the company IMP team.

2. Amend its IMP procedures to include provisions for performing a sensitivity analysis based on a range of pipeline break sizes and response times for the 12 CIPL pipeline system stream crossings.

3. The revised sensitivity analysis shall conservatively assess the Cook Inlet HCA impacts that could result from predicted oil spill volumes and spread extents.

4. Submit the amended procedures to the Director within 30 days following receipt of this Order.

The Director may grant an extension of time to comply with any of the required Compliance Order or Amendment of Procedure items upon a written request timely submitted by Chevron demonstrating good cause for an extension.

WARNING ITEM

With respect to **Item 1(c)**, the Notice alleged a probable violations of § 195.452(f)(1) but did not propose a civil penalty or compliance order for these items. Therefore, this is considered to be a warning item. The warning was for:

> 49 C.F.R. § 195.452(f)(1) ─ CIPL's alleged failure to provide specificity in its written IMP procedures for segment identification.

In its Response, CIPL indicated that it would revise its IMP to include more specific procedures on segment identification. Having considered such information, I find, pursuant to 49 C.F.R. § 190.205, that a probable violation of 49 C.F.R. § 195.452(f)(1) has occurred and Respondent is hereby advised to correct such condition. In the event that OPS finds a violation for this item in a subsequent inspection, Chevron may be subject to future enforcement action.

Failure to comply with this Order may result in administrative assessment of civil penalties not to exceed $100,000 for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a 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 terms of the order, including any required corrective action and amendment of procedures, shall remain in full force and effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order shall be effective upon receipt.

_____ _____

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued