

Mr. David A. Justin
Manager, Eastern Area
Sun Pipe Line Company
Ten Penn Center
1801 Market Street, 26th Floor
Philadelphia, PA 19103

RE: CPF No. 1-2001-5002

Dear Mr. Justin:

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 \$5,000. 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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DEPARTMENT OF TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, DC 20590

_____)	
In the Matter of)	
Sun Pipe Line Company,)	CPF No.1-2001-5002
Respondent.)	
_____)	

FINAL ORDER

Between September 12, 2000 and September 14, 2000, 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 pipeline facilities and records for the inter-refinery pipeline system in Philadelphia, Pennsylvania. As a result of the inspection, the Director, Eastern Region, OPS, issued to Respondent, by letter dated March 1, 2001, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had violated 49 C.F.R. § 195.404. The Notice proposed assessing a civil penalty of \$15,000 for that violation.

Respondent responded to the Notice by letter dated March 28, 2001(Response). Respondent contested the allegation in part, submitted information and requested mitigation of the proposed civil penalty.

FINDING OF VIOLATION

The Notice alleged that Respondent had violated 49 CFR § 195.404(c) in failing to maintain a record of valve maintenance for 1998 and for the first half of 1999. Section 195.420(b) requires the operator of a hazardous liquid pipeline to inspect each mainline valve to determine that it is functioning properly at least twice each calendar year. With the Response, Respondent submitted a spreadsheet showing that the required valve inspections had been performed twice in 1998. The Director, Eastern Region, reviewed the record and found that it met the requirements of § 195.404(c). Respondent submitted no other record. I therefore find that Respondent violated § 195.404(c) in failing to maintain a record of valve maintenance/inspection for the first half of 1999.

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.

Under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I am required to consider the following criteria in determining the amount of the civil penalty: nature, circumstances, and gravity of the violation, degree of Respondent's culpability, history of Respondent's prior violations, 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 a penalty of \$15,000 for violation of 49 C.F.R. § 195.404(c)(3), which requires an operator to maintain for at least two years a record of each inspection and test required by Subpart F. Section 195.420(b), which requires at least two inspections of each mainline valve each calendar year, is located in Subpart F. The Notice proposed that Respondent be assessed "\$5,000 for each set of missing records for a total of \$15,000." Respondent, in its Response, asked for a reduction of "the proposed civil penalty in light of the discovery of the evidence and records to support the 1998 valve inspections." Because Respondent has produced two of the three sets of missing records, Respondent is requesting that the civil penalty be assessed only for the missing 1999 records.

Because Respondent is only missing one set of records, the nature and circumstances of the violation are not as serious as they could have been. Good record keeping practices are essential to the safe operation of a pipeline. Lack of routine maintenance procedures puts both company employees and the public at risk. Respondent is an established corporation with ample ability to pay for the violation discussed above. Payment of the fine will have no effect on its ability to continue in business. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,000.

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, DC 20590-0001.

Questions concerning wire transfers should be directed to: Financial Operations Divisions (AMZ-120) Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25770, Oklahoma City, OK 73125; **(405) 954-4719**.

Failure to pay the \$5,000 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 an United States District Court.

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 this Final Order 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.

Stacey Gerard
Associate Administrator
for Pipeline Safety

Date Issued