



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety Administration**

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

OCT 19 2006

Mr. Rick Olson
Vice President of Transportation
Magellan Pipeline Company, LLC
1 Williams Center, Bank of Oklahoma Tower
P.O. Box 22186
Tulsa, OK 74121-2186

Re: CPF No. 3-2006-5005

Dear Mr. Olson:

Enclosed is the Final Order issued by the Acting Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$5,000. 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 Huntoon, Director, Central Region, OPS

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)

Magellan Pipeline Company, LLC,)

Respondent)
_____)

CPF No. 3-2006-5005

FINAL ORDER

Between May 2 and September 9, 2005, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety (OPS) and the Minnesota Office of Pipeline Safety (MNOPS) conducted an on-site pipeline safety inspection of Respondent's facilities and records at its Tulsa, Oklahoma headquarters and various field locations. As a result of the inspection, the Director, Central Region, OPS, issued to Respondent, by letter dated January 17, 2006, 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. Part 195 and proposed assessing a civil penalty of \$5,000 for the alleged violation.

Respondent responded to the Notice by letter dated February 22, 2006 (Response). Respondent did not contest the allegations of violation and offered information describing the corrective actions it has taken. Respondent did not request a hearing, and therefore has waived its right to one.

FINDING OF VIOLATION

In its Response, Respondent did not contest the alleged violation in the Notice. Accordingly, I find that Respondent violated the following section of 49 C.F.R. Part 195, as more fully described in the Notice:

49 C.F.R. § 195.432 – failing to demonstrate that the specified breakout tanks received monthly inspections for the specified time periods in 2003 and 2004.

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.

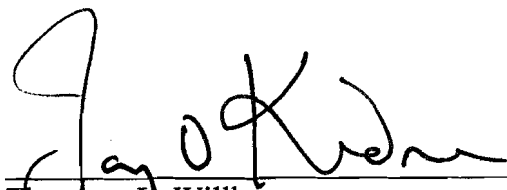
The Notice proposed a total civil penalty of \$5,000 for Respondent's failure to demonstrate that the specified breakout tanks received monthly inspections for the specified time periods in 2003 and 2004 in accordance with § 195.432. Monthly inspection of above-ground breakout tanks is key to ensuring that any physical integrity concerns are promptly identified and addressed. In its response, Respondent described the corrective actions it had taken including incorporating its monthly external tank inspection procedure into an electronic inspection, maintenance and management system capable of transmitting automatic notifications to supervisors if inspections are not timely completed. Respondent, however, has presented no information that would warrant a reduction in the civil penalty amount proposed in the Notice for this violation. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$5,000. 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 \$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 a United States District Court.

The terms and conditions of this Final Order are effective on receipt.

for 

Theodore L. Willke
Acting Associate Administrator
for Pipeline Safety

OCT 19 2006

Date Issued