

Ms. Bernie Frieh
Manager, Safety and Training
Natural Gas Pipeline Company of America
701 East 22nd Street
Lombard, IL 60148-5072

Re: CPF 23103

Dear Ms. Frieh:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes a finding of violation, assesses a civil penalty of \$17,000 and withdraws the notice of amendment. 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: Mr. Charles E. Doubrava
Sr. Vice President, Pipeline Operations

James M. Hunt, Esq.
Attorney

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

| | | |
|------------------------------|---|---------------|
| In the Matter of |) | |
| |) | |
| Natural Gas Pipeline Company |) | CPF No. 23103 |
| of America, |) | |
| |) | |
| Respondent. |) | |

FINAL ORDER

On June 14-18 and June 22-25, 1993, 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 in Texarkana, Malvern, Searcy, and Biggers districts in Arkansas. As a result of the inspection, the Director, Southern Region, OPS, issued to Respondent, by letter dated November 8, 1993, 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. § 192.465(d) and proposed assessing a civil penalty of \$25,000 for the alleged violation. The Notice also proposed, in accordance with 49 C.F.R. § 190.237, that Respondent amend certain procedures in its inspection and maintenance manual.

Respondent responded to the Notice by letter dated December 10, 1993 requesting a 30-day extension. The extension was granted and Respondent officially responded to the Notice by letter dated January 11, 1994 (Response). Respondent did not contest the allegation of violation but provided information to support mitigation of the proposed penalty, and requested that the allegations of violation at several of the locations be withdrawn. Respondent did not request a hearing and therefore has waived its right to one.

FINDING OF VIOLATION

Item two in the Notice alleged that Respondent violated 49 C.F.R. § 192.465(d). This provision requires each operator to take prompt remedial action following the discovery of deficiencies in cathodic protection indicated by monitoring. The deficiencies in cathodic protection are detected by low readings on an operator's pipe-to-soil (P/S) monitoring. Part 192 (Appendix D) specifies that the P/S readings must be maintained at negative 0.850 millivolts or above. Item two enumerated deficiencies at 25 locations. Location Nos. 3 and 25 contained readings taken from two sites. Deficiencies were recorded at the following locations:

| | <u>Location</u> | <u>P/S Potential</u> | <u>Year</u> | <u>District</u> |
|-----|----------------------------|----------------------|-------------|-----------------|
| 1. | Location withdrawn. | | | |
| 2. | Mainline # 3, T.L 515A | 0.681 | 6/92 | Malvern |
| | Mile Post 32447 + 83 | 0.775 | 5/93 | |
| 3. | Compressor Station # 306 | 0.815 | 5/91 | Malvern |
| | (a) Mile Post # 7 + 00 | 0.813 | 12/91 | |
| | Remote control | 0.928 | 6/92 | |
| | (b) Location withdrawn. | | | |
| 4. | AR Hwy. 157 | 0.824 | 12/91 | Searcy |
| | M.P.: 37342 + 05 | 0.823 | 12/92 | |
| | Line # 1 | | | |
| 5. | Hwy. 371 | 0.825 | 12/91 | Searcy |
| | M.P.: 37290 + 53 | 0.743 | 12/92 | |
| | Line # 2 | | | |
| 6. | Product w. side pump bldg. | 0.654 | 5/90 | Searcy |
| | M.P.: 11 + 00 | 0.649 | 12/90 | |
| | | 0.603 | 6/91 | |
| 7. | Product e. side pump bldg. | 0.559 | 5/90 | Searcy |
| | M.P.: 12 + 00 | 0.808 | 12/90 | |
| | | 0.765 | 6/91 | |
| 8. | Location withdrawn. | | | |
| 9. | Location withdrawn. | | | |
| 10. | Station # 42202 + 72 | 0.706 | 11/88 | Biggers |
| | Drip 4-16 | 0.720 | 10/89 | |
| | Line # 1 | 1.023 | 12/90 | |
| 11. | Station # 41831 + 01 | 0.838 | 6/91 | Biggers |
| | Line # 1 | 0.703 | 8/92 | |
| 12. | Station # 42239 + 08 | 0.633 | 10/89 | Biggers |
| | Line # 1 | 0.847 | 12/90 | |
| | | 0.692 | 6/91 | |

| | | | | |
|-----|--------------------------|-------|-------|---------|
| 13. | Location withdrawn. | | | |
| 14. | Station # 42213 + 62 | 0.786 | 11/88 | Biggers |
| | Line # 2 | 0.723 | 10/89 | |
| | Drip 1416 | 1.060 | 12/90 | |
| 15. | Station # 42249 + 29 | 0.623 | 10/89 | Biggers |
| | Line # 2 | 0.821 | 12/90 | |
| | | 0.673 | 6/91 | |
| 16. | Location withdrawn. | | | |
| 17. | Station # 42213 + 99 | 0.746 | 11/88 | Biggers |
| | Line # 3 | 0.763 | 10/89 | |
| | | 1.050 | 12/90 | |
| 18. | Station # 42457 + 63 | 0.812 | 10/89 | Biggers |
| | Hwy. 67 | 0.840 | 12/90 | |
| | Line # 3 | 1.618 | 6/91 | |
| 19. | Station # 41841 + 96 | 0.804 | 12/90 | Biggers |
| | Line # 2 | 0.768 | 6/91 | |
| | | 0.580 | 8/92 | |
| 20. | Location withdrawn. | | | |
| 21. | Station # 41875 + 51 | 0.833 | 6/91 | Biggers |
| | Line # 2 | 0.768 | 8/92 | |
| 22. | Station # 41875 + 75 | 0.830 | 12/90 | Biggers |
| | Line # 3 | 0.813 | 6/91 | |
| | | 0.726 | 8/92 | |
| 23. | Location withdrawn. | | | |
| 24. | Station # 42076 + 76 | 0.805 | 6/91 | Biggers |
| | Line # 3 | 0.704 | 8/92 | |
| 25. | Compressor Station # 308 | 0.785 | 12/91 | Biggers |
| | (a) M.P.: 8 + 00 | 0.633 | 8/92 | |
| | Remote Control | 0.751 | 12/92 | |
| | | 0.705 | 6/93 | |
| | (b) Location withdrawn. | | | |

Respondent contested the alleged violation of 49 C.F.R. § 192.465(d) at several locations. Respondent argued that its pipeline at location No. 1 (Arkla Crossing) runs beneath a pipeline operated by Arkla Energy Resources Company (Arkla) and the lack of cathodic protection on Arkla's line adversely affected its readings. Respondent explained that it has been working with Arkla "to ensure that both pipelines maintain appropriate P/S readings." (Response, p. 3). In addition, Respondent has monitored this location more frequently and added a rectifier.

Respondent contested location Nos. 8, 9, 13, 16, and 25(b) on the grounds that these locations were either: (1) not Respondent's pipeline facility; or (2) not facilities subject to the testing and monitoring requirements of § 192.465(d). Specifically, Respondent provided information to indicate that:

- ! Location No. 8 is a sump pump used to pump basement water to an above-ground 210 barrel storage tank;
- ! Location Nos. 9, 13, and 16 were facilities not owned or operated by Respondent; and
- ! Location No. 25(b) is a water hydrant used to supply utility water to Compressor Station 308. (Response, p. 4).

Based on this information, all locations contested by Respondent -- Nos. 1, 8, 9, 13, 16, and 25(b) -- have been withdrawn. Respondent did not contest the alleged violation at the remaining locations. In reviewing the remaining sites, location Nos. 3(b), 20, and 23 have also been withdrawn because the evidence in the record does not establish that the low readings continued for more than a few months.

At all of the remaining locations, the record indicates that the low readings continued for a minimum of approximately one year. At several locations low readings persisted for a period of two to three years. Therefore, the information provided in the record supports a finding that Respondent failed to take prompt remedial action following the discovery of low readings at the following locations: Nos. 2, 3(a), 4, 5, 6, 7, 10, 11, 12, 14, 15, 17, 18, 19, 21, 22, 24, and 25(a). Accordingly, I find that Respondent violated 49 C.F.R. § 192.465(d) at 18 locations. This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

AMENDMENT OF PROCEDURES

The Notice alleged inadequacies in Respondent's inspection and maintenance manual and proposed requiring amendment of Respondent's procedures to comply with the requirements of 49 C.F.R. §§ 192.453.

Respondent has submitted copies of its amended procedures, which the Director, Southern 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.

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.

49 U.S.C. § 60122 and 49 U.S.C. § 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 assessing a civil penalty of \$25,000 for the violation of 49 C.F.R. § 192.465(d). The violation is serious given the importance of ensuring that the pipeline is adequately protected against corrosion, which is a major cause of pipeline failure. Corrosion can result from inadequate cathodic protection where prompt remedial action is not taken. A review of Respondent's pipe-to-soil monitoring records indicated that low readings occurred for extended periods of time. Many locations on Respondent's pipeline system exhibited low cathodic protection readings for two, and in some cases three, consecutive years. The failure to take appropriate action to correct the low readings in time for the next inspection cycle reflects a serious lapse in Respondent's ability to react appropriately to matters affecting the safe operation of its pipeline system. Inadequate cathodic protection for this period could have adversely affected the safe operation of the pipeline system, and could have resulted in pipeline failure, endangering the public and the environment.

The Notice identified 25 locations where Respondent failed to take prompt corrective action following the discovery of deficiencies in its cathodic protection. Respondent presented information which resulted in the withdrawal of the alleged violation at six of the locations. In addition the alleged violation has been withdrawn at three other locations due to evidentiary deficiencies. Two of the withdrawn allegations resulted in a \$500 reduction in the penalty because they involved two components. As a result, there are 18 locations where a violation occurred, with a \$1000 civil penalty attached to 16 locations and a \$500 penalty attached to two locations. Thus, the civil penalty has been reduced to \$17,000.

I have considered that Respondent took several steps to remedy the low readings on its pipeline system, including:

- ! the installation of mag anodes at three locations;
- ! the addition of three ground beds;
- ! the addition of insulating flange kits to isolate above-ground piping from cathodic protection;
- ! the recoating of several pipeline drips;
- ! the addition of four rectifiers affecting various locations; and

! the relocation of a ground bed.

However, many of Respondent's corrective actions were delayed, resulting in extended periods of inadequate cathodic protection. Accordingly, I do not find that additional mitigation is warranted for the locations where findings of violation have been established. Having reviewed all the assessment criteria, I assess Respondent a civil penalty of \$17,000. I find Respondent has the ability to pay the assessed civil penalty and such a penalty will not effect Respondent's ability to continue in business.

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 8405, U.S. Department of Transportation, 400 Seventh Street, S.W., 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 \$17,000 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.

WARNING ITEMS

The Notice did not propose a civil penalty for Items 1 and 4 but warned Respondent that it should take appropriate corrective action. The information that Respondent presented in its Response shows that Respondent has addressed the cited items. However, should a violation come to the attention of OPS in a subsequent inspection, enforcement action will be taken. Items 3 and 5 were also proposed as warning items but have been withdrawn due to additional information provided by Respondent.

Under 49 U.S.C. § 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.

Richard B. Felder
Associate Administrator
For Pipeline Safety

Date Issued: 08/18/1997