



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety Administration**

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

SEP 20 2006

Mr. Thomas C. Simmons, P.E.
Vice President Power Supply
Hawaii Electric Company, Inc.
P.O. Box 2750
170 Ala Moana Boulevard
Honolulu, HI 96840-0001

Re: CPF No. 5-2004-5022

Dear Mr. Simmons:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It withdraws one of the allegations of violation, makes findings of violation and finds that you have completed the actions specified in the Notice required to comply with the pipeline safety regulations. The Final Order also finds that you have addressed the inadequacies in your procedures that were cited in the Notice of Amendment. This case is now closed. 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: Mr. Chris Hoidal, P.E., Director Western Region, PHMSA

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

**DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, DC 20590**

In the Matter of

Hawaii Electric Company, Inc.

Respondent

CPF No. 4-2004-5022

FINAL ORDER

On March 25 and 26, 2004, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration's (PHMSA's)¹ Office of Pipeline Safety conducted an on-site pipeline safety inspection of Respondent's Integrity Management Program (IMP) in Hilo, Hawaii. As a result of the inspection, the Director, Western Region, PHMSA, issued to Respondent, by letter dated July 9, 2004, a Notice of Probable Violation, Proposed Compliance Order, and Notice of Amendment (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent committed violations of 49 C.F.R. Part 195, and proposed that Respondent take certain measures to correct the alleged violations. The Notice also alleged inadequacies in Respondent's IMP and proposed to require amendment of Respondent's procedures to comply with the requirements of 49 C.F.R. § 195.452.

Respondent responded to the Notice by letter dated August 13, 2004², as supplemented by letter dated April 13, 2005 (Response). Respondent contested one of the allegations, offered information to explain the allegations, and described the corrective measures it has taken with respect to the Notice. Respondent did not request a hearing, and therefore has waived its right to one.

¹ Effective February 20, 2005, the Pipeline and Hazardous Materials Safety Administration (PHMSA) succeeded Research and Special Programs Administration as the agency responsible for regulating safety in pipeline transportation and hazardous materials transportation. See, section 108 of the Norman Y. Mineta Research and Special Programs Improvement Act (Public Law 108-426, 118 Stat. 2423-2429 (November 30, 2004)). See also, 70 Fed. Reg. 8299 (February 18, 2005) re delegating the pipeline safety authorities and functions to the PHMSA Administrator.

² It appears that due to mailing and as indicated, Respondent received the Notice was received on July 15, 2004.

FINDINGS OF VIOLATION

(Uncontested)

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

Item 2a— 49 C.F.R. § 195.452(b)(3)—failing to include in its IMP a requirement to assess the pre-1970 low-frequency electric resistance welding pipe seam according to the rule requirements;

Item 2d—49 C.F.R. § 195.452(b)(3)—failing to include in its IMP any requirements to investigate dents; furthermore, the planned assessment did not contain a geometry tool to assess dents;

Item 5a—49 C.F.R. § 195.452(i)(1)—failing to have in place a process to evaluate whether or not any preventive or mitigative actions could be employed to reduce the risk of pipeline failure consequences to the public; and

Item 5e—49 C.F.R. § 195.452(i)(1)—failing to have in place a process to evaluate whether or not any emergency flow restricting devices could be added to its pipeline system to reduce the consequences of a pipeline failure to the public.

These findings of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

WITHDRAWAL OF ALLEGATION

The Notice Item 1c alleged that Respondent had violated 49 C.F.R. § 195.452 (f)(1), by failing to conduct an overland spread analysis for a potential pipeline failure. In its response, Respondent submitted information demonstrating that conducting additional overland spread analysis modeling under the circumstances is unnecessary. As the explanations, information, and other materials set forth in the Response indicate, Respondent's activities and analysis reach the same result that modeling would. The Western Region Director notes that due to the unique operating environment that Respondent's pipeline operates within this analysis may have limited value; however, the Western Region Director points out that if this pipeline was to be moved inland or Respondent was to acquire an inland system, the analysis would be required. Based on the information at hand, I am withdrawing this allegation of violation.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 2(a), 2(d), 5(a), and 5(e) in the Notice. 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. With respect to these Items,

Respondent stated in its Response that it would incorporate the requirements into its IMP and that any results or analyses would be forthcoming and provided to PHMSA. The Regional Director has reviewed the Response and has determined that the Response addresses the proposed compliance actions. Accordingly, since compliance has been achieved with respect to these violations, it is not necessary to include the compliance terms in this order.

AMENDMENT OF PROCEDURES

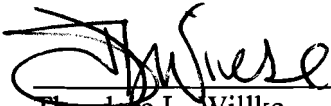
The Notice alleged inadequacies in Respondent's procedures/plans and proposed to require amendment of Respondent's procedures to comply with the requirements of 49 C.F.R. §§ 195.452(f)(1), 195.452(b)(3), 195.452(f)(4), 195.452(e)(1), 195.452(i)(1), 195.452(j)(1), and 195.452(f)(7).

In its response, Respondent submitted copies of its amended procedures, which the Director, Western Region, PHMSA reviewed. Accordingly, based on the results of this review, I find that Respondent's original procedures as described in the Notice were inadequate to ensure safe operation of its pipeline system, but that Respondent has corrected the identified inadequacies. No need exists to issue and order directing amendment.

WARNING ITEMS

The Notice did not propose a civil penalty or corrective action for Item 3(b) and 4(b). Therefore, these are considered to be warning items. Respondent is warned that if it does not take appropriate action to correct these items, enforcement 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. 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 and amendment of procedures, remain in full effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order are effective on receipt.


Theodore L. Willke
Acting Associate Administrator
for Pipeline Safety

SEP 20 2006

Date Issued