



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

MAR - 5 2002

Mr. Tom F. Wanzeck
Regional Transportation Manager
Conoco, Inc.
13059 East Peakview Avenue #110
Centennial, CO 80111

Re: CPF No. 5-2001-5004

Dear Mr. Wanzeck:

Enclosed is a Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes a finding of violation of pipeline safety standards. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. §190.5.

I acknowledge receipt of, and accept the wire transfer dated September 7, 2001, in the amount of \$25,000 as payment in full of the civil penalty. This case is now closed and no further enforcement action is contemplated with the respect to the matters involved in this case. Thank you for your cooperation in our joint effort to ensure pipeline safety.

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)
)
)

Conoco, Inc.)

CPF No. 5-2001-5004

Respondent)
)
)

FINAL ORDER

Between December 13-15, 2000, pursuant to Chapter 601 of 49 United States Code, a representative of the Office of Pipeline Safety (OPS) conducted an investigation of a tank overflow at Conoco's Yellowstone Pipeline Company's Helena Terminal in the Helena, Montana area. As a result of the inspection, the Director, Western Region, OPS, issued to Respondent, by letter dated July 19, 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 committed a violation of 49 C.F.R. Part 195 and proposed assessing a civil penalty of \$25,000 for the alleged violation.

FINDING OF VIOLATION

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

49 C.F.R. §195.402(a) – failure to follow procedures by not actually switching the product flow from Tank #32 to Tank #35 as the records indicated.

This finding of violation will be considered as 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.

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.

Accordingly, having reviewed the record and considered the assessment criteria, I assessed a civil penalty of \$25,000, already paid by Respondent. The terms and conditions of this Final Order are effective upon receipt.



SG
Stacey Gerard
Associate Administrator
for Pipeline Safety

MAR - 5 2002

Date Issued