



U.S. Department  
of Transportation  
**Research and  
Special Programs  
Administration**

400 Seventh St. S.W.  
Washington D.C. 20590

FEB - 3 2004

Jeff Mojcher  
Attorney  
Chevron Texaco Corporation  
6001 Bollinger Canyon Road  
Room T3252  
San Ramon, California 94583

RE: Texaco Exploration and Production Inc. - CPF No. 52010

Dear Mr. Mojcher:

Enclosed is the decision on the Petition for Reconsideration filed in the above-referenced case. The Associate Administrator for Pipeline Safety has denied the relief sought by Respondent. I acknowledge your wire transfer dated September 12, 2001 for \$15,752.67 as payment in full of the civil penalty assessed in the Final Order. However, because the Petition for Reconsideration stayed the civil penalty, you should not have been assessed interest and penalties. You will be refunded \$3,752.67.

Your receipt of the enclosed document constitutes service under 49 C.F.R. § 190.5.

Sincerely,

James Reynolds  
Pipeline Compliance Registry  
Office of Pipeline Safety

Enclosure

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DEPARTMENT OF TRANSPORTATION  
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION  
WASHINGTON, DC

In the Matter of	)	
	)	
Texaco Exploration and Production, Inc.,	)	CPF No. 52010
	)	
Respondent.	)	
	)	
	)	

DECISION ON PETITION FOR RECONSIDERATION

On March 25, 1997, pursuant to 49 U.S.C. § 60112, my predecessor issued a Final Order in this case, assessing Respondent a civil penalty of \$12,000 for violating 49 C.F.R. §§ 192.13(c), 192.465(b), 192.491(c), 192.603(b), 192.605(d), 192.614, and 192.615. On April 13, 1997, Respondent filed a petition requesting reconsideration (Petition) of that Final Order. The Petition requested that the civil penalty be withdrawn for two reasons: the failure to issue a timely Final Order; and the excessiveness of the civil penalty in light of the number and nature of the alleged violations. On September 12, 2001, Respondent paid the assessed civil penalty.

1. Timeliness of the Final Order

In its petition, Respondent objects to receiving the Final Order over four and one-half years after the hearing on the Notice of Probable Violation. Respondent argues that the Office of Pipeline Safety (OPS) failed to issue a Final Order within 45 days of receipt of the case and failed to notify Respondent of a substantial delay and by what date OPS expected that action would be taken. (Petition, p.1) Respondent further states that “[t]he notice requirement protects the respondent’s right to fully and adequately respond to these Final Orders.” (Petition, p.2) For the reasons stated, Respondent requests that the penalty assessment be withdrawn.

Failing to issue the Final Order within the stated time or notifying Respondent of any delay, is a policy, not a requirement, and does not negate OPS’s authority to assess a civil penalty for a violation. Moreover, Respondent incurs no hardship from a delayed Final Order. Until the order is issued, making findings of violation, Respondent is not compelled to take any corrective action or to pay a civil penalty.

Additionally, Respondent did request a hearing in this case which took place on October 15, 1992. Therefore, it was given the complete opportunity to fully and adequately respond to the allegations of violation. Respondent was not denied its due process rights because of the delay in issuing the Final Order. Therefore, I do not find these arguments merit withdrawing the civil penalty.

2. The Amount of the Civil Penalty is Excessive in Light of the Number and Nature of the Alleged Violations

In its petition, Respondent objects to the amount of the civil penalty because it is based only on two instances of not documenting inspections it had performed. Respondent adds that the Final Order finds that its overall record keeping was sound and the 'lack of cited records was not indicative of how Respondent maintained its pipeline safety record keeping system.' (Petition, p.2, quoting Final Order) Respondent further states that the OPS audit conducted in 1996 found no record violations, further evidence that the two violations in this case were anomalies and not indicative of its record keeping practices. For these reasons, Respondent requests the penalty assessment be withdrawn.

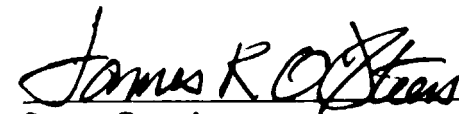
Whether indicative of overall record keeping practices or not, the violations are instances of not following the pipeline safety regulations. Item 3 of the Order, which relates to your Cymric rectifier and your Material Road rectifier, found that there was no documentation verifying that the inspection of the two rectifiers took place within one 2-1/2 month interval as required by the regulations. Therefore, the civil penalty will remain at \$2000.

Item 4 of the Order found a lack of corrosion control documentation demonstrating buried pipe was examined when exposed and the pipeline system was monitored for atmospheric corrosion. Without this documentation, there was no assurance that the inspections took place to verify the cathodic protection system was actually protecting the pipeline. Therefore, the civil penalty will remain at \$10,000.

Relief Denied

I have considered Respondent's request for reconsideration. I do not find Respondent's assertions warrant withdrawal of the civil penalty. The civil penalty amounts do not appear excessive when compared to the fact that there was no required documentation assuring that the inspections actually took place.

This decision on reconsideration is the final administrative action in this proceeding.

  
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Stacey Gerard  
Associate Administrator  
for Pipeline Safety

FEB | - 3 | 2004

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Date Issued