



U.S. Department  
of Transportation

**Research and  
Special Programs  
Administration**

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

SEP - 5 2002

Mr. Jim Lightner  
Vice-President  
Tom Brown, Incorporated  
555 17<sup>th</sup> Street, Suite 180  
Denver, CO 80202

RE: CPF No. 5-2001-5006

Dear Mr. Lightner:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes a finding of violation and a determination that the terms of the compliance order are complete. This enforcement action is now closed. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. §190.5.

Sincerely,

*for*  
Gwendolyn M. Hill  
Pipeline Compliance Registry  
Office of Pipeline Safety

Enclosures

**VIA CERTIFIED MAIL (RETURN RECEIPT REQUESTED) AND TELECOPY**

**DEPARTMENT OF TRANSPORTATION  
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION  
WASHINGTON, DC 20590**

In the Matter of	)	
	)	
Tom Brown, Incorporated	)	CPF No. 5-2001-5006
	)	
Respondent.	)	
	)	

**FINAL ORDER**

On May 15-17, 2001, a representative of the Western Region, Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code, conducted an inspection of your pipeline facilities and records in the Lisbon Valley Industrial Area, near Moab, Utah. As a result of the investigation, the Director, Western Region, OPS, issued to Respondent, by letter dated July 30, 2001, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent violated 49 C.F.R. §§ 195.416(i), 195.418(a), 195.420(a), (b), and 195.432(b). The Notice also proposed that Respondent take certain measures to correct the alleged violations.

Respondent responded to the Notice by letter dated August 30, 2001 (Response). Respondent contested the allegations of violation, offered information to support its position and provided information concerning the corrective actions it has taken. Respondent has not requested a hearing and therefore, has waived its right to do so.

**FINDING OF VIOLATION**

Item 5 of the Notice alleged that Respondent violated 49 C.F.R. § 195.432(b), which requires each operator to inspect the physical integrity of in-service atmospheric and low pressure steel above ground breakout storage tanks, per Section 4 of the American Petroleum Institute (API) Standard 653. According to Section 4.3.2.1. of API Standard 653, Respondent is required to perform a visual external inspection of all tanks by an Authorized Inspector. However, Respondent failed to produce any records or documentation demonstrating that the visual external inspection had been performed on all of the tanks, specifically Tank #12 and Tank #13.

In response to Item 5, Respondent argued that the tanks had been “grand fathered” and that it is not required to conduct a visual external inspection by an Authorized Inspector until May 3, 2004. Nevertheless, Respondent advised that it has taken corrective action and is awaiting final documentation of an August 28, 2001, tank inspection by Advanced Corrosion & Environmental Services.

The pipeline safety regulations require that the Respondent inspect the physical integrity of in-service atmospheric and low pressure steel above ground breakout storage tanks in accordance with Section 4 of API Standard 653. Respondent must read API 653 Section 4 in its entirety. API 653 requires the facility to conduct four separate and distinct inspections for each storage tank; Routine In-service Inspection (4.3.1), External Inspection (4.3.2), Ultrasonic Thickness Inspection (4.3.3), and Internal Inspections (4.4). An operator must follow all of the procedures for maintenance and inspections outlined in API 653 standard and perform any repairs recommended by the Authorized Inspector to show compliance and prevent tank content releases.

API Standard 653 establishes that aboveground storage tanks used by the petroleum and chemical industry should be inspected on a periodic basis for corrosion and structural flaws. An operator is to perform periodic in-service inspection of tanks shall to assure continued tank integrity. API Standard 653, Section 4.2.1. covers inspection frequency considerations and delineates several factors to determine inspection intervals for storage tanks. Section 4.2.2 of API 653 states that "The interval between inspections of a tank (both internal and external) should be determined by its service history unless special reasons indicate that an earlier inspection must be made."

The condition of Tank #13 presents special reasons why an inspection by an Authorized Inspector is needed at this interval. Tank #13 has a failing paint system, as the paint at the top southwest corner of Tank #13 was worn off. Many of the plate welds for Tank #13 were found to be in a “+” pattern and not staggered. Buckles were found in Tank #13 and there was evidence of failed attempts to eliminate these buckles by welding on “I” beams. Furthermore, a gap exists between the bottom of Tank #13 and the ground level, allowing moisture to drain into the gap between the tank bottom and grade level.

The primary objective of the Federal gas pipeline safety standards is public safety and failure to timely inspect and correct any deficiencies could adversely affect public safety. A condition which allows the presence of water ingress can cause corrosion and gradually erode the foundation under the floor. Tank floor failures are insidious because fluids can leak into the subsurface and into the ground water long before the leak is detected. Checking for leaks, shell distortions, signs of settlement, corrosion and conditions of the foundation, paint coating, insulation and appurtenances are forms of preventive maintenance. Preventive maintenance is critical to the safety of the public, environment and property. Respondent has not shown any circumstance that would have prevented or justified its failure to timely inspect and to correct the deficiencies found. Therefore, Respondent violated 49 C.F.R. §195.432(b) by failing to inspect the physical integrity of in-service atmospheric and low pressure steel above ground breakout storage tanks.

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

### **WARNING ITEMS**

The Notice did not propose a civil penalty or require corrective action for Items 1-4; therefore, these are considered warning items. Respondent is warned that should it not take appropriate corrective action, and should a violation for Items 1-4 come to the attention of OPS in a subsequent inspection, enforcement action will be taken.

Item 1 in the Notice alleged that Respondent failed to clean, coat, with material suitable for the prevention of atmospheric corrosion, and maintain this protection for each component in its pipeline system that is exposed to the atmosphere.

Item 2 in the Notice alleged that Respondent failed to investigate the corrosive effect of the hazardous liquid on the system and take adequate steps to mitigate the corrosion.

Item 3 in the Notice alleged that Respondent failed to maintain each valve that is necessary for the safe operation of its pipeline system in good working order at all times. Specifically, the Devils Canyon Block (near AM #35) and the Monticello valves were not in good working order.

Item 4 in the Notice alleged that Respondent failed to inspect each mainline valve to determine it is functioning properly at intervals not exceeding 7 ½ months, but at least twice each calendar year. Specifically, there were no recorded inspections of the mainline valves on the outlet and bypass of the Lisbon Valley pig launcher.

### **COMPLIANCE ORDER**

The Notice proposed a Compliance Order with respect to Item 5. The Regional Director, Western Region, OPS has received verifiable documentation that a visual external inspection was performed by Advanced Corrosion & Environmental Services on August 28, 2001, per API 653. The inspection included a determination of what measures are necessary to ensure the integrity of Tank #12. As for Tank #13, Respondent provided documentation that Tank #13 is being removed from service, including FERC abandonment.

Respondent has demonstrated corrective action addressing all Items in the proposed compliance order. The Director, Western Region, OPS has accepted these measures as adequately fulfilling the requirements of the pipeline safety regulations and no further action is needed with respect to those items in the compliance order.

Under 49 C.F.R. § 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.

Failure to comply with this Final Order may result in the assessment of civil penalties of up to \$25,000 per violation per day, or in the referral of the case for judicial enforcement.



Stacey Gerard

71 Associate Administrator  
for Pipeline Safety

SEP - 5 2002

Date