

Mr. James Crowley
Gas Superintendent
Borough of Chambersburg
100 South Second Street
P.O. Box 1009
Chambersburg, Pennsylvania 17201-0909

RE: CPF No. 17003

Dear Mr. Crowley:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation and requires certain corrective action. At such time that the terms of the Compliance Order are completed, as determined by the Director, Eastern Region, this enforcement action will be closed. 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. Tom Finucane, Borough Solicitor
Mr. Eric Oyer, Borough Manager

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DEPARTMENT OF TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590

In the Matter of)
)
Borough of Chambersburg) CPF No. 17003
)
Respondent.)
_____)

FINAL ORDER

On October 29 - 31, 1996, 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 facilities and records at Chambersburg, Pennsylvania. As a result of the inspection, the Director, Eastern Region, OPS, issued to Respondent, by letter dated March 18, 1997, a Notice of Probable Violation, Proposed Civil Penalty and Proposed Compliance Order. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had violated 49 C.F.R. §§ 192.605(a), 192.605(b)(1), and 192.605(b)(2), and proposed assessing a civil penalty of \$5000 for the alleged violation of §192.605(b)(2). The Notice also proposed that Respondent take certain measures to correct the alleged violations.

Respondent responded to the Notice by letter dated April 15, 1997 (Response). Respondent provided information concerning the corrective actions it has taken. Respondent requested a hearing which was conducted on August 12, 1997.

FINDINGS OF VIOLATION

Respondent did not contest the alleged violations in the Notice. Accordingly, I find that Respondent violated the following sections of 49 C.F.R. Part 192, as more fully described in the Notice:

49 C.F.R. § 192.605(a) -- failing to review and update its O&M manual, at intervals not exceeding 15 months, but at least once each calendar year;

49 C.F.R. § 192.605(b)(1) -- failing to include in its manual, procedures that specifically address § 192.619(a)(2)(ii), under Subpart L, Maximum allowable operating pressure: Steel or plastic pipelines.

49 C.F.R. § 192.605(b)(2) -- failing to include procedures in its O&M manual for controlling corrosion.

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

ASSIGNMENT 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.

With respect to the violation of 49 C.F.R. § 192.605(b)(2), Respondent quickly revised and updated its O&M manual to ensure compliance with the regulations. Upon considering the assessment criteria, specifically Respondent's ability to pay the penalty and its good faith in attempting to achieve compliance, I will not assess a civil penalty for this violation.

COMPLIANCE ORDER

The Notice proposed a compliance order. Respondent has demonstrated corrective action addressing items 1, 2, 3 and 5 in the proposed compliance order. The Director, Eastern Region, OPS has accepted these measures as adequately fulfilling the requirements of the regulations and no further action is needed with respect to those items in the compliance order. However, with respect to Item 4, corrective action was not demonstrated.

Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the authority of 49

U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is hereby ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations.

- (1) Develop procedures addressing the corrosion control monitoring requirements of 49 C.F.R. § 192.465. These procedures must address prompt remedial action to correct deficiencies indicated by the monitoring of the cathodic protection system.
- (2) Within 90 days following receipt of the Final Order, submit those procedures to: Director, Eastern Region, Office of Pipeline Safety, Research and Special Programs Administration, Nassif Building, 400 Seventh Street, S.W., Room 2108, Washington, D.C. 20590.
- (3) The Director, Eastern Region, OPS may grant an extension of time for completion of the procedures, upon receipt of a written request from the Respondent stating the reasons for the extension.

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). 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 any aspect of this Final Order, including the Amendment, 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.

Richard B. Felder
Associate Administrator for Pipeline Safety

Date issued: _____