



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

MAY 12 2008

1200 New Jersey Ave., S.E.
Washington, DC 20590

The Honorable Edward S. Itta
Mayor
North Slope Borough
P. O. Box 69
Barrow, AK 99723

Re: CPF No. 58016 (re-numbered as 5-1998-0016)

Dear Mayor Itta:

Enclosed is the Final Order issued in the above-referenced case. It makes findings of violation and finds that you have completed the actions specified in the Notice required to comply with the pipeline safety regulations. Therefore, this case is now closed. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Since it has been some time since the Notice of Probable Violation (Notice) was issued in this case, I have enclosed a copy of the original Notice and related correspondence for your convenience.

Thank you for your cooperation.

Sincerely,

William H. Giese
for
Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosures

cc: Mr. Ben Frantz, General Manager
Barrow Utilities and Electric Cooperative, Inc.
P.O. Box 449, Barrow, AK 99723

Mr. Kent Grinage, Division Manager/Fuels
North Slope Borough, Department of Public Works
P.O. Box 69, Barrow, AK 99723

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

In the Matter of)
)
)
North Slope Borough, Alaska,)
)
)
Respondent.)
_____)

**CPF No. 58016 (re-
numbered as 5-1998-0016)**

FINAL ORDER

On July 27, 1998, pursuant to 49 U.S.C. § 60117, a representative of the Research and Special Programs Administration,¹ Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the natural gas transmission pipeline and related pipeline facilities owned by the North Slope Borough, a municipality of the State of Alaska (NSB or Respondent). The pipeline begins at the South Gas Field and runs 5.6 miles north to Barrow. As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated September 22, 1998, 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 had violated 49 C.F.R. §§ 192.603 and 192.199(c) and proposed ordering Respondent to take certain measures to correct the alleged violations.

Respondent responded to the Notice by letter dated October 13, 1998 (Response). Respondent contested one of the allegations of violation and provided information concerning the corrective actions it had taken. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

In its Response, Respondent did not contest the allegation in the Notice that it violated 49 C.F.R. Part 192, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.603, which states:

¹ On November 30, 2004, the Norman Y. Mineta Research and Special Programs Improvement Act, Pub. L. No. 108-426, 118 Stat. 2423, created the Pipeline and Hazardous Materials Safety Administration (PHMSA) and transferred the authority of RSPA exercised under chapter 601 of title 49, United States Code, to the Administrator of PHMSA. See also 70 Fed. Reg. 8299, 8301-8302 (2005) (delegating authority to the Administrator of PHMSA).

49 C.F.R. § 192.603 General Provisions.

(a) No person may operate a segment of pipeline unless it is operated in accordance with this subpart [Subpart L].

(b) Each operator shall keep records necessary to administer the procedures established under § 192.605.

The Notice alleged that Respondent did not consider itself to be a qualified pipeline operator and had failed to operate its natural gas transmission pipeline in accordance with the requirements of 49 C.F.R. Subpart L. Respondent did not contest this allegation and explained that it was attempting to enter into a contract with a natural gas pipeline operator to operate its pipeline.²

Accordingly, I find that Respondent violated 49 C.F.R. § 192.603 by failing to operate its natural gas transmission pipeline in accordance with 49 C.F.R. Subpart L.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.199(c), which states:

49 C.F.R. § 192.199 Requirements for design of pressure relief and limiting devices.

Except for rupture discs, each pressure relief or pressure limiting device must:...

(c) Be designed and installed so that it can be readily operated to determine if the valve is free, can be tested to determine the pressure at which it will operate, and can be tested for leakage when in the closed position;....

The Notice alleged that Respondent failed to comply with § 192.199(c) because its South Gas Field Pipeline Safety Shutoff Valve (PSV) could not be tested for leakage when in the closed position. The South Gas Field PSV is located at the beginning of Respondent's natural gas transmission pipeline. In its Response, Respondent contested the allegation and offered additional information.

First, Respondent indicated that the PSV was part of former U.S. Government facilities that were "turned over" to Respondent by the Barrow Gas Field Transfer Act of 1984 (1984 Act). Respondent indicated that the 1984 Act included a provision that made the facilities exempt from the federal Pipeline Safety Laws. However, a review of the 1984 Act, the implementing statute, and legislative history reveals no such exemption.

Second, Respondent indicated that the PSV was tested annually. However, Respondent admitted that the installed configuration of the PSV did not include a provision for leak testing the valve. The regulation requires that Respondent's PSV be capable of being tested for leakage in the closed position. Leak testing of pressure relief and limiting devices is a necessary and important means of determining if such devices are

² Subsequent to issuance of the Notice, NSB entered into an agreement, dated October 27, 1998, with Barrow Utilities and Electric Cooperative, Inc. (BUECI), entitled "High Pressure Steel Gas Line Operation and Routine Maintenance Agreement" (Agreement). Under the terms of the Agreement, BUECI agreed to physically operate the pipeline downstream of the South Gas Field PSV located within NSB's "Sheep Shed" building and NSB agreed to retain responsibility for operating the PSV and certain other parts of the pipeline facility. This Final Order covers pipeline facilities owned by NSB and currently operated by both BUECI and NSB.

functioning in a safe manner. If Respondent has no means of testing whether a pressure-limiting device will leak when closed, public safety, property and the environment are threatened.

Finally, Respondent indicated that it recognized the deficiencies with its existing facilities and that at the time of the Notice, Respondent was in the process of constructing new facilities. OPS appreciates Respondent's efforts to improve the safety of its gas pipeline facilities but Respondent remains responsible for compliance with the pipeline safety regulations at all times. Respondent's subsequent efforts to improve safety do not warrant withdrawal of this allegation of violation.

After considering all the evidence, I find that Respondent violated 49 C.F.R. § 192.199(c) by failing to ensure that its South Gas Field PSV was designed and installed so it could be tested for leakage when in the closed position.

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

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1 and 2 in the Notice for violations of 49 C.F.R. §§ 192.603 and 192.199(c). 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. The Director has indicated that Respondent has taken the following actions specified in the proposed compliance order:

Item 1: The proposed compliance order required NSB to designate a qualified operator for its pipeline facilities. Respondent has provided information that shows it has entered into an agreement, dated October 27, 1998, with the Barrow Utilities and Electric Cooperative, Inc. regarding the operation of a portion of the gas pipeline facility at issue in this Final Order.

Item 2: The proposed compliance order required NSB to design and install a pressure regulating device at the beginning of the transmission line that met all the requirements of § 192.199. PHMSA reviewed various documents, including a valve maintenance record, dated August 27, 2005, that demonstrated that a new PSV (Safety Shutoff Valve-310) had been installed at the beginning of the gas pipeline and met the requirements of § 192.199.

Accordingly, since compliance has been achieved with respect to these violations, it is unnecessary to include compliance terms in this Order.

The terms and conditions of this Final Order shall be effective upon receipt.

William A. Gude

for

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

MAY 12 2008

Date Issued