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

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

JUL 19 2006

Mr. James Johnson
Vice President for Pipeline Operations
Alyeska Pipeline Service Company
P.O. Box 196660
Anchorage, AK 99519-6660

Re: CPF No. 5-2002-5035

Dear Mr. Johnson:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case.

The Final Order makes findings of violation with respect to Items 4a, 4b and 5 (Item # as alleged in the Notice of Probable Violation dated Dec. 31, 2002) and assesses a civil penalty of $20,000. The Final Order also withdraws the allegation of violation in Item 2 and, per the terms of the Consent Agreement dated May 19, 2006, withdraws the allegation of violation in Item 3 and the associated civil penalty. The Final Order further finds that the procedures alleged to be inadequate in Item 1 have been satisfactorily amended. When the civil penalty is paid 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,

James Reynolds
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

cc: Lee Schoen
Sheila Bishop Doody

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION[1]
WASHINGTON, DC

In the Matter of	
Alyeska Pipeline Service Company,	**CPF No. 5-2002-5035**
Respondent.	

FINAL ORDER

From May 21-26, 2001, July 16-20, 2001, July 24-25, 2001, and September 19-20, 2002, a representative of the Office of Pipeline Safety (OPS), pursuant to 49 U.S.C. § 60117, conducted on-site pipeline safety inspections of Respondent's facilities, manuals and records at Pump Stations 4, 5, 6 and 12 on the Trans Alaska Pipeline System (TAPS).

As a result of the inspections, the Director, Western Region, OPS, issued to Respondent, by letter dated December 31, 2002, a Notice of Probable Violation, Proposed Civil Penalty, Proposed Compliance Order and Notice of Amendment (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding Respondent had violated 49 C.F.R. §§195.412(a), 195.420(b), 195.422(a), and195.428(a), proposed assessing a civil penalty of $23,000 for several of the alleged violations, and proposed Respondent take certain measures to correct the alleged violations. The Notice also proposed, in accordance with 49 C.F.R. § 190.237, that Respondent amend its procedures for Operations, Maintenance and Emergencies.

On, January 14, 2003, Respondent requested an extension until April 7, 2003 to respond to the Notice, which the Regional Director granted on March 17, 2003. Respondent submitted its response to the Notice on April 3, 2003 (Response). Respondent contested the allegations, submitted detailed information to explain the allegations and reserved the right to a hearing.

[1] This case is no longer before the Research and Special Programs Administration (RSPA), the agency that issued the Notice of Probable Violation. Effective February 20, 2005, the Pipeline and Hazardous Materials Safety Administration (PHMSA) was created to further the highest degree of safety in pipeline transportation and hazardous materials transportation. See, section 108 of the Norman Y. Mineta Research and Special Programs Improvement Act (Public Law 108-426, 118 Stat. 2423-2429 (November 30, 2004)). See also, 70 Fed. Reg. 8299 (February 18, 2005) redelegating the pipeline safety functions to the Administrator, PHMSA.

A hearing was held in the Western Region, OPS, on March 23, 2004. After the hearing, Respondent submitted a Closing Statement dated May 22, 2004.

FINDINGS OF VIOLATION

Item 2 in the Notice alleged Respondent had violated 49 C.F.R. § 195.412(a) requiring an operator to inspect the surface conditions on rights-of-way at intervals not exceeding 3 weeks, but at least 26 times each calendar year. The Notice alleged OPS inspectors observed, by aerial and ground surveillance, extensive brush and tree encroachment on the right-of-way in areas between Pump Station 12 and the Valdez Marine Terminal, precluding Respondent from effectively inspecting and ascertaining the condition of the pipeline surface conditions.

Respondent maintained it conducts effective inspections of the surface conditions on and adjacent to the right-of-way. Respondent explained it conducts weekly aerial surveillance, quarterly ground surveillance and an annual line walk, and these inspections are sufficient to observe the conditions of the pipe and right-of-way. Respondent further explained it refrains from clearing between Check Valve 122 and Remote Gate Valve 123 for safety reasons because the steep grades make it hazardous for personnel to work in the area. However, Respondent periodically brushes the area for cathodic protection monitoring.

Respondent conducts the required number of inspections through a mixture of aerial and ground patrols. At issue is the adequacy of these inspections to detect surface conditions. The purpose of an operator inspecting along the right-of-way is to locate any pipeline leaks and to detect excavation activity that could affect the safe operation of the pipeline. OPS has advised it is up to the operator to choose the method of surveillance, but the method must allow the surface condition to be adequately surveyed. (See OPS interpretation #195.412 7 dated December 2, 1988.) Several interpretations have advised that rights-of-way are to be kept of clear of brush and trees if visual aerial inspections are used. (See interpretation #195.412 8, dated May 28, 1991.) However, this is not required by regulation. Respondent is conducting surveillance of the right-of-way more frequently than the regulation requires. Although I understand OPS's concern that the brush appears to interfere with Respondent's ability to observe right-of-way conditions, OPS did not show Respondent's surveillance was unable to inspect surface conditions along the pipeline right-of- way. Accordingly, I am withdrawing this allegation of violation.

Item 3 alleged Respondent violated §195.420(b) because it failed to do a functional test of block valves BL-1 and BL-2 at Pump Station 12 and of valve #20M1 at Pump Station 11 at the required intervals. The regulation requires an operator to inspect each mainline valve at intervals not exceeding 7 ½ months, but at least twice each calendar year, to determine the valve is functioning properly. Respondent and PHMSA have entered into a consent agreement to resolve this allegation. The agreement was incorporated into a Consent Order dated May 19, 2006. Under the agreement, PHMSA has agreed to withdraw this allegation.

Item 4 alleged two violations of 49 C.F.R. §195.422(a) for two separate instances of not completing repairs in a safe manner, and ensuring the repairs were made so as to prevent damage to persons or property. The first instance was at Pump Station 4 on September 22, 2001, when Respondent's personnel removed a button-head sealant lubricant port from a 24-inch mainline pump suction valve without relieving the pressure in the valve body. The internal pressure of 120 psig forced the button head out of the valve and 200 gallons of oil spilled. The second instance, also on September 22, 2001, was at Pump Station 5 when personnel did not properly isolate the 24-inch header from tank TK 150. A discharge of 2,035 gallons of crude oil resulted causing the lower explosive level in the enclosure to reach 100%.

Respondent acknowledged the spills occurred at Pump Stations 4 and 5 during the pipeline maintenance shutdown on September 22, 2001 and created temporary unsafe conditions. Section 195.422(a) requires an operator, when making repairs, to ensure the repairs are made in a safe manner and are made to prevent damage to persons or property. Respondent has not disputed the repairs made on September 22, 2001 at Pump Stations 4 and 5 resulted in oil spills, evacuation of personnel, and a potentially explosive environment. Although the situations may have been temporary, the regulation does not differentiate between temporary and permanent unsafe conditions. Accordingly, I find Respondent violated §195.422(a) when it made the two repairs. Respondent's corrective and mitigative actions, described in its response and at the hearing, will be addressed in the penalty assessment section of this Order.

Item 5 alleged Respondent violated §195.428(a) for not maintaining its over pressure protection equipment at Pump Station 6. The Notice alleged Respondent had not calibrated the pressure-switch-high #604 at Pump Station 6 from 1996 until November 2000. The Notice further alleged although Respondent stopped the annual calibration and test of the switch when it decommissioned the switch, the switch still had a role in controlling pipeline pressure.

Respondent explained it had mistakenly cancelled the semi annual maintenance of the pressure switch high #604 (PSH-604) in 1997 but has since reinstituted the annual calibration. Respondent maintained PSH-604 is a backup device for overpressure protection between Pump Stations 5 and 9 during pipeline shutdown and is not designed to provide protection during normal operations. According to Respondent, the pipeline's integrity was protected by the primary over pressure protection devices at other pump stations.

Section 195.428(a) requires an operator, at specified intervals, to inspect and test each pressure limiting device, relief valve, pressure regulator or other item of pressure control equipment to determine that the device is functioning properly, and is adequate for the service for which it is used. The regulation does not differentiate between primary and back up overpressure safety devices. Thus, for any overpressure safety device, an operator is to inspect the device at intervals not to exceed 7 ½ months, but at least twice each calendar year. Respondent did not inspect and calibrate PSH-604 within the required intervals for a four-year period, albeit due to a mistake. Accordingly, I find Respondent violated §195.428(a).

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

PENALTY ASSESSMENT

Under 49 U.S.C. § 60122, when the Notice was issued, Respondent was 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. The Notice proposed a total civil penalty of $23,000 for violation of §§ 195.420(b), 195.422 and 195.428 (Items 3, 4a, 4b, and 5).

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.

Under the terms of the Consent Agreement dated May 19, 2006, the allegation and proposed penalty for Item 3 are withdrawn.

For the two violations of 49 C.F.R. §195.422(a), the Notice proposed a $5,000 civil penalty for the incident at Pump Station 4 and $10,000 for the incident at Pump Station 5. These violations both occurred on September 22, 2001 when Respondent had two separate instances of failing to conduct repairs in a safe manner. Respondent said it took prompt action during these incidents to mitigate and correct the unsafe conditions. Respondent further maintained neither event resulted in injury to personnel or significant long term damage to the environment. Respondent explained that when the Pump Station 4 spill occurred, the building was immediately evacuated and the spill isolated and removed with no damage to the environment. At Pump Station 5, the building was evacuated, fire foam applied to the oil to reduce the explosive vapors to a safe level, and little or no long-term damage to the environment resulted. As long-term measures, determined by its root cause analysis, Respondent revised its energy isolation training and provided immediate refresher training for its project managers, rewrote its energy isolation process and developed procedures for removal of button-head fittings. These procedures are required to be at the work site when maintenance is performed.

Each incident resulted in oil being spilled with potential environmental damage and personnel being exposed to a dangerous situation. At Pump Station 4, 200 gallons of oil spilled; at Pump Station 5, 2035 gallons spilled with a lower explosive level reaching 100%. Respondent's immediate actions are what any prudent operator would do to mitigate a dangerous situation. Although Respondent's long term actions in revising its procedures and training to ensure future similar repairs are made safely are commendable, it is the operators' responsibility to operate and maintain its pipeline safely. This includes having the necessary procedures and training for personnel to carry out operations and maintenance functions. Respondent's actions are not a basis for reducing the civil penalty amounts.

The Notice proposed a civil penalty of $5,000 for the violation of §195.428(a). Respondent had not tested this pressure switch for five years. Although Respondent argued this was a redundant device, the regulations do not differentiate between maintenance of redundant devices and of primary devices. The switch was part of Respondent's overpressure protection logic. If the

device had failed it could have led to a pipeline shutdown, increasing the risk of an incident occurring during shutdown and subsequent start up operations. I do not see any basis for mitigating the penalty amount.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of $20,000.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require this payment be made by wire transfer, through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-120), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125; (405) 954-4719.

Failure to pay the $ 20,000 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a United States District Court.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to item 2. Since this allegation was withdrawn, Respondent will not be ordered to take any action.

AMENDMENT OF PROCEDURES

The Notice (Item 1) alleged procedures in Respondent's maintenance and repair manual (MR 48) were inadequate to comply with 49 C.F.R. §195.402(d) because they did not address deviations from normal operation, such as when an incident causes an aboveground anchor to move more than three inches from center. The Notice proposed Respondent amend its procedures to include methods for determining anchor movement greater than three inches and for determining whether a safety-related condition report is required.

Respondent explained it had conducted a structural support study and reliability centered maintenance analysis. The analysis showed three adjacent supports would have to fail simultaneously for the pipe to be in danger of exceeding its design. Respondent agreed its manual, at the time of the inspection, did not define the conditions of maintenance for movement of pipeline anchors. Respondent said it had amended its procedures to check the position of the anchors at least once every 90 days and to re-center the anchor if it had moved more than three inches. Respondent maintained this interval would be less than any failure interval. The procedures included painting alignment markers on all above-ground anchors so that the aerial patrol will be able to see any misalignment. Respondent disagreed that pipe movement more than three inches from the anchor center warrants a safety-related condition report. Rather, Respondent considers a tripped anchor a notable condition. Respondent further explained that its primary method of identifying a tripped anchor is though the Rights-of-Way Maintenance information System, a web-based tool in Respondent's intranet.

The analysis and amended procedures now appear adequate for Respondent to ensure the reliability of its pipe support system. No further amendment will be required.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a 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 amendment of procedures, remain in full effect unless the Associate Administrator, on request, grants a stay. The terms and conditions of this Final Order are effective on receipt.

JUL 19 2006

Stacey Gerard
Associate Administrator
for Pipeline Safety

Date Issued