U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety Administration**

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

JAN - 9 2007

Ms. Margaret Yaege
President
ConocoPhillips Pipe Line Company
600 N Dairy Ashford St
Houston, TX 77079-1100

Re: CPF No. 4-2005-5037

Dear Ms. Yaege:

Enclosed is the Final Order issued by the Acting Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation and assesses a civil penalty of $200,000. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon payment. Your receipt of the Final Order constitutes service under 49 C.F.R. § 190.5.

Sincerely,

James Reynolds
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED

DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, DC 20590

In the Matter of	)	
ConocoPhillips Pipe Line Company,	)	**CPF No. 4-2005-5037**
Respondent	)	

FINAL ORDER

On June 7–10 and 20–24, 2005, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration conducted an on-site pipeline safety inspection of Respondent's written integrity management program in Ponca City, Oklahoma. As a result of the inspection, the Director, Southwest Region, issued to Respondent, by letter dated October 11, 2005, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had committed violations of 49 C.F.R. § 195.452 and proposed assessing a civil penalty of $200,000 for the alleged violations.

Respondent responded to the Notice by letter dated November 16, 2005 (Response). Respondent contested the allegations of violation, offered information in explanation of the allegations and requested that the proposed civil penalty be reduced or eliminated. Respondent did not request a hearing, and therefore has waived its right to one.

FINDINGS OF VIOLATION

Item 1 in the Notice alleged that Respondent violated 49 C.F.R. § 195.452(f)(4) and (h)(1) by failing to reduce operating pressure after Respondent discovered 12 immediate repair conditions. In its Response, Respondent argued that it had determined the anomalous conditions were actually 180-day conditions based on Respondent's experience from excavating similarly reported anomalies.

Section 195.452(f)(4) requires each hazardous liquid pipeline operator to have an integrity management program that includes criteria for addressing anomalous conditions discovered through integrity assessments. Section 195.452(h)(1) requires operators to take prompt action to address all anomalous conditions discovered through an integrity assessment. Specific remediation requirements are prescribed in subsection (h)(4) for certain conditions—for example, subsection (h)(4)(i) requires operators to temporarily reduce operating pressure or shut

down a pipeline until "immediate repair conditions" are repaired. An immediate repair condition is, among other things, a dent located on the top of the pipeline with a depth greater than 6% of the nominal pipe diameter. Subsection (h)(4)(iii) requires operators to schedule evaluation and remediation of "180-day conditions" within 180 days of discovery of the condition. A 180-day condition is, among other things, a dent located on the bottom of the pipeline with a depth greater than 6% of the nominal pipe diameter.

In July 2003, Respondent performed an integrity assessment on the Villa Ridge to E. St. Louis section of its pipeline using a caliper geometry tool. The single channel caliper tool was capable of detecting dents and the depths of those dents, but could not provide the orientation (o'clock position) of the anomalies. Shortly after the July 2003 tool run, Respondent received a preliminary report from the tool vendor that identified 12 dents with a depth of greater than 6% of nominal pipe diameter. Since the orientation of the dents was unknown, Respondent categorized the dents as immediate repair conditions (top-side orientation) and reduced operating pressure until the conditions were repaired. When Respondent excavated the conditions, Respondent found that their orientation was on the bottom side of the pipe.

In August 2003, Respondent received the final report for the tool run. Respondent did not anticipate that the report would include additional immediate repair conditions, so the report was placed in a queue to be evaluated later. In December 2003, Respondent discovered that the final report identified 12 additional dents of greater than 6% depth with unknown orientations. Based on its experience with the previous 12 dents, Respondent believed the newly-reported dents were also bottom side dents and treated them as 180-day conditions. Accordingly, Respondent did not take an immediate pressure reduction. Respondent has stated that the conditions were remediated within the applicable 180-day time frame.[1]

The Notice alleged Respondent violated § 195.452(f)(4) and (h)(1) by failing to address the newly-reported dents as immediate repair conditions. Since the depths of the dents were greater than 6% of nominal pipe diameter and the orientation was unknown, the Notice alleged Respondent was required to treat the dents as immediate repair conditions and take a pressure reduction until the conditions were repaired. In its Response, Respondent argued that it had determined the newly-reported dents were 180-day conditions based on its experience from excavating the first 12 reported conditions. "Based on actual conditions found" that showed the first set of conditions were bottom-side, Respondent believed the newly-reported conditions were also bottom side dents.[2] Respondent asserted that the regulations provide latitude for operators to determine when adequate information exists about a defect and to determine the priority for repair. Otherwise, Respondent stated, operators would not be permitted to use knowledge of their systems when evaluating conditions and prioritizing repairs.[3]

Each pipeline operator's integrity management program is tailor-made to address integrity issues based on that operator's experience and knowledge of their particular pipeline system. Decisions concerning the program must necessarily be based on sufficient factual data. In this case,

---

1 Response, p.3. Respondent also stated that it confirmed the newly-reported dents were bottom-side when the conditions were repaired.

2 Id.

3 Response, p.2.

Respondent decided that newly-reported anomalies were sufficiently similar to those previously reported and excavated that the dents would necessarily have the same orientation. While there may be some situations where characteristics of one anomaly can be deduced by comparing tool run data of two like-anomalies with the excavation information from just one, that practice would require enough intelligent tool run data to justify the initial inference that the anomalies are sufficiently similar. Respondent did not have enough intelligent tool run data to justify the inference that the unexcavated anomalies have the same orientation as those that had been excavated. The caliper tool reported only the existence of dents and their depth, but did not provide any information concerning orientation. Respondent has not shown how the previous excavations provided any information concerning the similarity of the unexcavated conditions. Although Respondent stated in its Response that the two sets of dents were "similarly reported," Respondent did not explain how this conclusion was reached or the facts that formed the basis for this conclusion.[4]

The protection of pipeline integrity from identified anomalous conditions is a chief objective of the integrity management regulations. Where orientation data is missing, and it is the determinative factor in categorizing a dent as an immediate repair condition, Respondent must treat the unknown variable as "worst case" (top-side) unless there is sufficient factual information to justify a different decision. In this case, Respondent did not have enough factual data, or at least none was provided to PHMSA, to support Respondent's decision that the 12 unexcavated conditions were bottom-side dents. Accordingly, Respondent was required to treat the dents with unknown orientation and depths of greater than 6% as immediate repair conditions and reduce operating pressure until the dents were repaired.

Respondent acknowledged that it did not reduce operating pressure upon discovery of the 12 newly-reported conditions. Accordingly, I find Respondent violated 49 C.F.R. § 195.452(f)(4) and (h)(1) by failing to reduce operating pressure upon discovery of 12 immediate repair conditions.

Item 2 in the Notice alleged Respondent violated 49 C.F.R. § 195.452(f)(4) and (h)(2) by failing to discover anomalous conditions promptly and no later than 180 days after an integrity assessment. Section 195.452(f)(4) requires operators to have an integrity management program that includes criteria for addressing anomalous conditions discovered through integrity assessment. Subsection (h)(2) specifies that operators must obtain sufficient information following an integrity assessment to discover each anomalous condition and to classify each condition in accordance with the time periods for remediation prescribed in subsection (h)(4). Discovery must be made promptly, but not later than 180 days after an integrity assessment.

The Notice alleged that Respondent failed to promptly discover anomalous conditions identified by several inline inspection (ILI) integrity assessments, despite having sufficient information well before the end of the 180-day deadline for discovery. The Notice listed 23 specific ILI tool runs from which Respondent's discovery of conditions was close to or exceeding the 180-day deadline despite Respondent's receipt of the final ILI reports months earlier. In its Response, Respondent acknowledged that it failed to meet the 180-day deadline in some instances, but argued that it met the deadline for most of the ILI runs listed in the Notice, noting that those

---

[4] Response, p.2.

discovery dates were recorded within 180 days of the assessments. Respondent explained that operators need to be permitted to use the full 180 days for evaluation, because "discovery may require analysis [and] integration of information from various sources."[5] Respondent objected to any "generalized finding that receipt of a Final report provides adequate information [for discovery]."[6]

Depending on the nature of the conditions reported and other circumstances, the final (and oftentimes preliminary) ILI reports will provide an operator with sufficient information to enable discovery of anomalous conditions.[7] During the June 2005 inspection, PHMSA found particular ILI reports provided Respondent sufficient information to discover anomalous conditions well-before Respondent actually declared discovery. In each case, Respondent's discovery of the conditions was close to or exceeding the 180-day deadline, which in turn delayed the regulatory deadline for remediation of the conditions.[8] Although Respondent correctly stated that discovery sometimes requires the gathering and integration of information from other sources, Respondent did not specifically claim that it needed to gather and integrate information from sources other than the ILI reports listed in the Notice. Respondent did not provide any evidence that contradicted the allegation in the Notice that Respondent had sufficient information from the ILI reports to enable earlier discovery of the conditions.

In its Response, Respondent stated that it has modified its process so that it will discover conditions within 180 days of each integrity assessment. Respondent also explained that whenever a deadline had been missed, Respondent reduced the time allowed for remediation to ensure that repairs would not also be delayed. Respondent's actions are noted, but they do not demonstrate compliance with respect to the alleged violation. Accordingly, I find Respondent violated 49 C.F.R. § 195.452(f)(4) and (h)(2) by failing to discover anomalous conditions promptly and no later than 180 days after ILI tool assessments.

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

---

5 Response, p.4.

6 Id.

7 PHMSA has communicated this and other informal guidance concerning compliance with the integrity management regulations on PHMSA's Implementing Integrity Management for Hazardous Liquid Operators web site at http://primis.phmsa.dot.gov/iim. Specifically, Frequently Asked Question (FAQ) 7.3 states: "*What constitutes 'discovery of a condition'?* Discovery of a condition occurs when an operator has adequate information about the condition to determine that it presents a potential threat to the integrity of the pipeline. Depending on circumstances, an operator may have adequate information when the operator receives the preliminary internal inspection report, gathers and integrates information from other inspections, or when an operator receives the final internal inspection report. Operators are required to obtain sufficient information about a condition to make this determination no later than 180 days after an integrity assessment, unless the operator can demonstrate that the 180-day period is impractical." (Revised February 18, 2003). While answers to FAQs are not rules, they provide informal guidance to the regulated community about how to implement their integrity management programs in accordance with the requirements of 49 C.F.R. part 195.

8 The Notice listed 23 ILI runs where Respondent recorded the discovery of conditions from 175 to 228 days after the date of the integrity assessment. Of the discoveries dated before the 180-day deadline had expired, most were recorded on the 179th and 180th day after the assessment.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to a civil penalty not to exceed $100,000 per violation for each day of the violation up to a maximum of $1,000,000 for any related series of violations. The Notice proposed a total civil penalty of $200,000 for the 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.

Item 1 in the Notice proposed a civil penalty of $50,000 for violating 49 C.F.R. § 195.452(f)(4) and (h)(1). Respondent failed to reduce operating pressure when it discovered 12 dents of greater than 6% depth and unknown orientation. Without sufficient information concerning the orientation of the reported dents, Respondent was required to treat the unknown orientation as worst case or top-side, which due to the depth of the dents required a pressure reduction until the conditions were repaired. Respondent's failure to reduce operating pressure upon discovery of immediate repair conditions threatened the integrity of the pipeline and high consequence areas that could be affected. Respondent has not submitted information that warrants reducing the proposed civil penalty for this violation. Respondent has previously been found in violation of the integrity management and other hazardous liquid pipeline safety regulations. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of $50,000 for violating 49 C.F.R. § 195.452(f)(4) and (h)(1).

Item 2 in the Notice proposed a civil penalty of $150,000 for violating 49 C.F.R. § 195.452(f)(4) and (h)(2). Respondent failed to discover anomalous conditions promptly and no later than 180 days after 23 specific ILI tool assessments, despite having sufficient information from ILI reports several months prior. Respondent's failure to promptly discover and categorize conditions identified by integrity assessments deferred the regulatory deadlines for remediation of anomalous conditions, which posed a potential threat to the integrity of pipelines that could affect a high consequence area. Respondent has previously been found in violation of the integrity management and other hazardous liquid pipeline safety regulations.

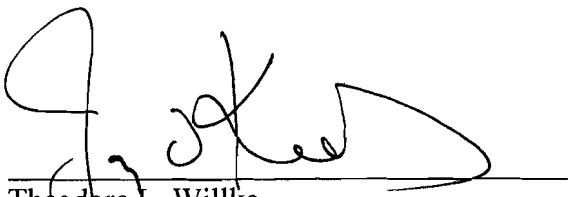
In its Response, Respondent noted that where the 180-day deadline was missed, Respondent reduced its own deadline for remediation of the conditions to ensure that repairs were not also delayed. Respondent also indicated that it has modified its process for discovery to ensure that future discoveries will be made no later than 180 days from the date of an integrity assessment. Respondent's actions are noted; but Respondent must also ensure that discoveries are made promptly when sufficient information is available, even when that information is available well before the end of the 180-day deadline. Respondent has not submitted information that warrants reducing the proposed civil penalty amount for this item. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of $150,000 for the violation of 49 C.F.R. § 195.452(f)(4) and (h)(2).

Having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of $200,000. Respondent has the ability to pay the assessed penalty without adversely affecting its ability to continue in business.

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-300), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125; (405) 954-8893.

Failure to pay the $200,000 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.

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. However, if Respondent submits payment for the civil penalty, the Final Order becomes the final administrative action and the right to petition for reconsideration is waived. The terms and conditions of this Final Order are effective on receipt.



JAN - 9 2007

Theodore L. Willke
Acting Associate Administrator
for Pipeline Safety

Date Issued