

DEPARTMENT OF TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, DC 20590

In the Matter of)	
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Koch Pipeline Company, L.P.)	CPF No. 46501
)	
Respondent.)	
)	

FINAL ORDER

During the week of September 11, 1995, 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 for the interstate crude oil system from McCamey, Texas to the Texas side of the Red River. As a result of the inspection, the Director, Southwest Region, OPS issued to Respondent, by letter dated January 4, 1996, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. §190.207, the Notice proposed finding that Respondent had committed violations of 49 C.F.R. Part 195 and proposed assessing a civil penalty of \$6,000 for the alleged violations. The Notice also proposed that Respondent take certain actions to correct the alleged violations.

Respondent responded to the Notice by letter dated April 4, 1996 (response). Respondent did not contest the allegations of violations. Respondent did not request a hearing, and therefore, has waived its right to one.

Respondent's response included a proposed plan and implementation schedule for establishing maximum operating pressures, as contemplated in the Proposed Compliance Order. OPS has accepted the proposed plan and implementation schedule.

FINDINGS OF VIOLATION

Respondent did not contest alleged violations 1 - 2 and 4 - 6 in the Notice. Accordingly, I find that Respondent committed the following violations of 49 C.F.R. Part 195, as more fully described in the Notice:

- Item #1. Respondent failed to maintain adequate current records establishing the maximum operating pressure as required by 49 C.F.R. §195.404(a)(3) for

its pipelines in the Midland and Haskell areas.

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Item #2. Respondent failed to comply with the inspection and testing requirements of 49 C.F.R. §195.428(a) (relating to overpressure safety devices) as follows:

- a. the interval between the 3/17/93 & 12/14/94 inspections of the Cotton Lane Injection Station exceeded the prescribed 15 month maximum interval by approximately six months;
- b. the interval between the 4/20/93 & 11/17/94 inspections of the Pembrook Injection Station exceeded the prescribed 15 month maximum interval by approximately four months; and

Item #4. Respondent failed to comply with the inspection and testing requirements of 49 C.F.R. §195.416(c) (relating to cathodic protection rectifiers) as follows:

- a. Inspections of the Hamlin Station Rectifiers:
 - I. the interval between the 4/30/93 & 7/26/93 inspections exceeded the prescribed 2 1/2 month maximum interval;
 - ii. the interval between the 11/9/93 & 2/7/94 inspections exceeded the prescribed 2 1/2 month maximum interval; and
 - iii. the rectifiers were inspected only 5 times during calendar year 1993 thus violating the requirement that inspections be conducted a minimum of 6 times each calendar year.

b. Inspections of the Hamlin to Haskell Section Rectifiers:

- i. the interval between the 4/29/93 & 7/26/93 inspections exceeded the prescribed 2 1/2 month maximum interval; and

Note: Inspections of Rectifiers # 468 and # 164 were within prescribed criteria.

- ii. the rectifiers were inspected only 5 times during calendar year 1993 thus violating the requirement that inspections be

conducted at least 6 times each calendar year.

c. Inspections of the Haskel to Baylor Section Rectifiers:

- i. the interval between the 4/29/93 & 7/26/93 inspections exceeded the prescribed 2 1/2 month maximum interval; and

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Note: Inspections of Rectifier # 382 were within prescribed criteria.

- ii. the rectifiers were inspected only 5 times during calendar year 1993 thus violating the requirement that inspections be conducted at least 6 times each calendar year.

Note: Inspections of Rectifier # 234 were within prescribed criteria.

d. Inspections of the Baylor Station Rectifiers:

- i. the interval between the 4/29/93 & 7/27/93 inspections exceeded the prescribed 2 1/2 month maximum interval; and
- ii. the rectifiers were inspected only 5 times during calendar year 1993 thus violating the requirement that inspections be conducted a minimum of 6 times each calendar year.

e. Inspections of the Baylor to Archer Section Rectifiers:

- i. the interval between the 6/24/94 & 9/21/94 inspections exceeded the prescribed 2 1/2 month maximum interval; and
- ii. the rectifiers were inspected only 5 times during calendar year 1993 thus violating the requirement that inspections be conducted a minimum of 6 times each calendar year.

f. Inspections of the Archer Station Rectifiers:

- i. the interval between the 4/29/93 & 7/28/93 inspections exceeded the prescribed 2 1/2 month maximum interval;

- ii. the interval between the 9/21/93 & 12/9/93 inspections exceeded the prescribed 2 1/2 month maximum interval;
- iii. the interval between the 6/24/94 & 9/23/94 inspections exceeded the prescribed 2 1/2 month maximum interval;
- iv. the interval between the 10/8/94 & 12/29/94 inspections exceeded the prescribed 2 1/2 month maximum interval;

- v. the interval between the 4/3/95 & 6/27/95 inspections exceeded the prescribed 2 1/2 month maximum interval; and
- vi. the rectifiers were inspected only 5 times during calendar year 1993 thus violating the requirement that inspections be conducted a minimum of 6 times each calendar year.

Item #5. Respondent failed to comply with the inspection and testing requirements of 49 C.F.R. §195.420(b) (relating to mainline valves) as follows:

- a. The interval between the 10/21/93 & 6/29/94 inspections of the following valves exceeded the prescribed 7 1/2 month maximum interval:
 - i. North Haskel incoming MOV #1; and
 - ii. North Haskel bypass MOV #3.
- b. The following mainline valves were inspected only once during calendar year 1993 thus violating the requirement that inspections be conducted a minimum of twice each calendar year:
 - i. Hamlin Station incoming block valve;
 - ii. Hamlin Station outgoing block valve;
 - iii. North Haskel incoming MOV #1;
 - iv. North Haskel bypass MOV #3;
 - v. Miller Creek Reservoir south side;
 - vi. Miller Creek Reservoir north side;
 - vii. Brazos River south side;
 - viii. Brazos River north side;
 - ix. Baylor Station incoming valve;
 - x. Baylor Station MOV #2;

- xi. Baylor Station outgoing valve;
 - xii. Little Wichita River south side;
 - xiii. Little Wichita River north side;
 - xiv. Archer Station incoming valve;
 - xv. Archer Station outgoing valve;
 - xvi. Red River Station MOV; and
 - xvii. Red River Station south side.
- c. The following mainline valves were not inspected during calendar year 1993 thus violating the requirement that inspections be conducted a minimum of twice each calendar year:
- i. F.M. 1080 block valve north side;
 - ii. Archer Station MOV #3; and
 - iii. North Haskel outgoing MOV #2.

Item #6. Respondent failed to comply with the inspection and testing requirements of 49 C.F.R. §195.428(a) (relating to overpressure safety devices) in that the following facilities were not being inspected, thus violating the requirement that inspections and testing be conducted at least once each calendar year and at intervals not exceeding 15 months:

- a. Baylor Booster Station; and
- b. Archer Booster Station.

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

ASSESSMENT 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. The Notice proposed civil penalties totaling \$6,000 as follows:

violation #2 -	\$1,000	violation #4 -	\$2,000
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violation #5 -	\$2,000	violation #6 -	\$1,000

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 Respondents 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.

Respondent has not offered any information to mitigate the proposed penalty, which is modest in light of the assessment criteria. **Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$6,000.**

Payment of the civil penalty **must be made within 20 days of service.** Payment can be made by sending a certified check or money order (containing the CPF number for this case) payable to "U.S. Department of Transportation" to the Federal Aviation Administration, Mike Monroney Aeronautical Center, Financial Operations Division (AMZ-320), P.O. Box 25770, Oklahoma City, OK 73125.

Federal regulations (49 C.F.R. §89.21(b)(3)) also permit this **payment to 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.** After completing the wire transfer, send a copy of the **electronic funds transfer receipt** to the **Office of the Chief Counsel** (DCC-1), Research and Special Programs Administration, Room 8407, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590-0001.

Questions concerning wire transfers should be directed to: **Valeria Dungee**, Federal Aviation Administration, Mike Monroney Aeronautical Center, Financial Operations Division (AMZ-320), P.O. Box 25770, Oklahoma City, OK 73125; **(405) 954-4719.**

Failure to pay the \$6,000 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. §3717, 4 C.F.R. §102.13, 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

Under 49 U.S.C. §60118(a), each person who engages in the transportation of hazardous liquids, 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 with respect to the violation of 49 C.F.R. §195.404(a)(3) (violation #1 in the Notice) to ensure compliance with the pipeline safety regulations applicable to its operations:

1. Within 30 days of receipt of this Final Order, Respondent must create a plan and implementation schedule to evaluate existing maximum operating pressures for its system. The plan must include at least the following items:
 - I. which of the criteria described in 49 C.F.R. §195.406 Respondent will use to determine the maximum operating pressures for the affected pipelines; and
 - ii. procedures and forms Respondent will use to document its compliance with 49 C.F.R. §195.406.
2. Within 30 days of receipt of this Final Order, Respondent must send a copy of the plan and implementation schedule to the Regional Director, Office of Pipeline Safety, Southwest Region.
3. After receiving approval of the plan and implementation schedule, implement the plan according to the approved schedule.
4. The Director, Southwest Region, OPS may grant an extension of time for completion of any of the actions required herein, upon receipt of a written request from the Respondent stating reasons therefore.

Note: The Office of Pipeline Safety, Southwest Region, acknowledges that it received the required plan and implementation schedule in correspondence from Respondent dated April 4, 1996, and that it has approved the plan and implementation schedule. No further submission is required under items #1 and #2 above provided that Respondent is, in fact, meeting the requirements of its proposed plan and implementation schedule as of the date of this Final Order.

WARNING ITEMS

The notice did not propose any penalty with respect to Respondent's failure to prepare and follow a manual of written procedures for conducting normal operations and maintenance activities as required by 49 C.F.R. §195.402(a) for its pipelines in the Haskell area (item #3 in the Notice). Respondent is warned that should it not take appropriate corrective action, and should a violation come to the attention of OPS in a subsequent inspection, enforcement action will be taken.

Under 49 U.S.C. §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). In accordance with 49 C.F.R. §190.215(d), filing the petition does not stay the effectiveness of this Final Order. However, in the petition Respondent may request, with explanation, that the Final Order be stayed. 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 referral of the case for judicial enforcement.

Richard B. Felder
Associate Administrator
For Pipeline Safety

Date Issued: _____