



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

MAY - 5 | 2005

Mr. Robert J. Cooper
Compliance Manager
Equitable Production
1710 Pennsylvania Avenue
Charleston, WV 25302

RE: CPF No. 2-2004-1006 (Nora Transmission Pipeline)

Dear Mr. Cooper:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$4,500. I acknowledge receipt of, and accept Equitable Production Company's payment dated June 29, 2004 in the amount of \$4,500 as payment in full of the civil penalty assessed against Nora Transmission Pipeline, an affiliate of Equitable Production, in the Final Order. This case is now 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: Ms. Linda Daugherty, Director, OPS Southern Region

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

NORA TRANSMISSION PIPELINE
An Affiliate of Equitable Production

CPF No. 2-2004-1006

Respondent.

FINAL ORDER

During October 29-30, 2003, pursuant to 49 U.S.C. § 60117, representatives of the Office of Pipeline Safety (OPS), Southern, conducted an inspection an on-site pipeline safety inspection of Nora Transmission Pipeline, an affiliate of Equitable Production, facilities and records in Big Stone Gap, Virginia. As a result of the inspection, the Director, Southern Region, OPS, issued to Respondent, by letter dated April 22, 2004, a Notice of Probable Violation and Proposed Civil Penalty (Notice)¹. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had committed violations of 49 C.F.R. Parts 191 and 192 and proposed assessing a civil penalty of \$4,500 for the alleged violations.

Respondent requested an extension of time on May 18, 2004 to respond to the Notice. On May 26, 2004, Respondent was granted an extension until June 30, 2004 to submit a response to the Notice. Respondent responded to the Notice by letter dated June 15, 2004 (Response). Respondent did not contest the allegations of violation. Respondent did not request a hearing, consequently Respondent waived its right to one.

FINDINGS OF VIOLATION

Uncontested

Respondent did not contest the alleged violations of §§191.17(a), 192.465(a), 192.615(c), 192.705, 192.706(a) in the Notice. Accordingly, I find that Respondent violated 49 C.F.R. Parts 191 and 192, as more fully described in the Notice:

¹This case, however, is no longer before RSPA for decision. 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) re delegating the pipeline safety functions to the Administrator, PHMSA.

49 C.F.R. §191.17(a)– failure to submit an annual report, Form RSPA 7100.2-1, for its system within the required interval for calendar year 2000.

49 C.F.R. §192.465(a) – failure to monitor its cathodic protection systems at least once each calendar year, as there were no records of annual monitoring during the years of 2001 and 2002.

49 C.F.R. §192.615(c)– failure to maintain records in sufficient detail to demonstrate it established an effective liaison program with fire, police and other public emergency response officials.

49 C.F.R. §192.705 – failure to have records to show that it patrolled its pipelines during calendar year 2003 to observe surface conditions on and adjacent to the transmission line right-of-way for indications of leaks, construction activity, and other factors affecting safety and operation.

49 C.F.R. §192.706(a) – failure to maintain records in sufficient detail to demonstrate that it performed leakage surveys with leak detector equipment within the required interval, as there was no date on the form.

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 \$100,000 per violation for each day of the violation up to a maximum of \$1,000,000 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. The Notice proposed a total civil penalty of \$4,500 for violation of 49 CFR §§191.17(a), 192.465(a), 192.615(c), 192.705, and 192 706(a). The Notice proposed a total civil penalty of \$4,500.

The Notice proposed a civil penalty of \$1,000 for **Item 1**, \$1,000 for **Item 2**, \$1,000 for **Item 6**, \$1,000 for **Item 8**, and \$500 for **Item 9**. Respondent did not contest the violations or the civil penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$4,500, already paid by the Respondent.

WARNING ITEM

The Notice did not propose a civil penalty or corrective action for Items 3, 4, 5, and 7 but warned Respondent that it should take appropriate corrective action to correct the items. Respondent presented information in its response showing that it has addressed the cited items. Respondent is again warned that if OPS finds a violation in a subsequent inspection, enforcement action will be taken.

The terms and conditions of this Final Order are effective on receipt.



for

Stacey Gerard
Associate Administrator
for Pipeline Safety

MAY - 5 2005

Date Issued