



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

JUL 10 2006

Mr. Hank A. True III
President
Belle Fourche Pipeline Company
895 W. River Cross Road
Casper, WY 82602

Re: CPF No. **5-2004-5030**

Dear Mr. True:

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 \$50,000. The Final Order also specifies actions to be taken to comply with the pipeline safety regulations and requires the revision of certain of your operating and maintenance procedures. The penalty payment terms are set forth in the Final Order. When the civil penalty is paid and the terms of the Compliance Order and Amendment of Procedures are completed, as determined by the Director, Western Region, this enforcement action will be closed. 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

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)

Belle Fourche Pipeline Company,)

Respondent)
_____)

CPF No. 4-2004-5030

FINAL ORDER

Between May 17 and 19, 2004, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration's (PHMSA's) Office of Pipeline Safety conducted an on-site pipeline safety inspection of Respondent's integrity management program (IMP) in Casper, Wyoming. As a result of the inspection, the Director, Western Region, PHMSA issued to Respondent, by letter dated September 30, 2004, a Notice of Probable Violation, Proposed Civil Penalty, Proposed Compliance Order, and Notice of Amendment (Notice).¹ In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent committed violations of 49 C.F.R. Part 195, proposed assessing a civil penalty of \$50,000 for one of the alleged violations, and proposed that Respondent take certain measures to correct another of the alleged violations. The Notice also alleged inadequacies in Respondent's IMP and proposed to require amendment of Respondent's procedures to comply with the requirements of 49 C.F.R. § 195.452.

Respondent failed to respond within 30 days after it had received the Notice. Under 49 C.F.R. § 190.209(c), Respondent's failure to respond constitutes a waiver of Respondent's right to contest the allegations in the Notice and authorizes the entry of this Final Order.

FINDINGS OF VIOLATION

Respondent did not contest the alleged violations in the Notice. Accordingly, I find that Respondent violated the following sections of 49 C.F.R. Part 195 as more fully described in the Notice:

¹ Effective February 20, 2005, the Pipeline and Hazardous Materials Safety Administration (PHMSA) succeeded Research and Special Programs Administration as the agency responsible for regulating 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 authorities and functions to the PHMSA Administrator.

Item 2(a)—49 C.F.R. § 195.452(c)—failing to establish a baseline integrity assessment schedule prioritizing its pipeline segments based on all risk factors that reflect the risk conditions on each segment; and

Item 2(b)—49 C.F.R. § 195.452(c)—failing to include a seam failure susceptibility analysis on all pipeline segments containing low frequency electric resistance welded pipe (ERW) and lap welded pipe to determine which segments are susceptible to seam failure prior to selecting baseline integrity assessment methods for applicable segments.

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.

Item 2(a) of the Notice proposed a civil penalty of \$50,000.00 for violation of 49 C.F.R. § 195.452(c). Respondent violated 49 C.F.R. § 195.452(c) in that it did not develop a BAP that uses risk factors in establishing the base line assessment methods and schedule. Prioritizing pipeline segments for integrity assessments by risk is a key step in managing pipeline integrity. Respondent did not provide information that would warrant a reduction in the civil penalty amount proposed in the Notice.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$50,000 for violation of 49 C.F.R. § 195.452(c). Respondent has the ability to pay this 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 \$50,000 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(b) in the Notice. 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 ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to Item 2(b) of the Notice, perform a seam failure susceptibility analysis on all pipeline segments containing low-frequency (ERW) and lap welded pipe to determine which segments are susceptible to seam failure. This analysis must conclude which assessment methods are capable of addressing their specific seam issues;
2. Document the costs associated with fulfilling this Compliance Order and submit the documentation to the Director, Western Region, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 12300 West Dakota Ave, #110, Lakewood, Colorado 80228. Please refer to CPF No. 5-2004-5030 on all correspondence; and
3. Complete the above items within 60 days of receipt of this Final Order and submit the required documentation and procedures to the Director, Western Region, Office of Pipeline Safety.

The Director, Western Region, may grant an extension of time to comply with any of the required items upon a written request timely submitted by Respondent demonstrating good cause for an extension.

Failure to comply with this Order may result in the assessment of civil penalties of not more than \$100,000 per day and in referral to the Attorney General for appropriate relief in a United States District Court.

AMENDMENT OF PROCEDURES

Items 1(a-d), 2(c-d), 3(b), 4, 5(a-b), 6, 7(a-d), 8(a-f), 9(a-d), 10(a-b), and 11 of the Notice alleged inadequacies in Respondent's IMP and proposed to require amendment of Respondent's procedures to comply with the requirements of 49 C.F.R. § 195.452.

Respondent did not contest the Notice of Amendment. Accordingly, I find that Respondent's procedures as described in the Notice are inadequate to ensure safe operation of its pipeline

system. Pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. §190.237, Respondent is ordered to make the following revisions to its procedures:

1. Amend its IMP to include an evaluation of each individual pipeline facility to determine whether a release incident could affect a High Consequence Area (HCA). This analysis must include potential facility release volumes;
2. Amend its IMP to properly define the boundaries of those segments that could affect a HCA. A properly defined pipeline segment could affect a HCA at any location between its end points;
3. Amend its IMP to include technical justification showing that their use of the one mile area of impact for on-land spills is conservative;
4. Amend their IMP to include technical justification for the assumption that any segment of pipeline that crosses a stream with a HCA is considered to affect that HCA;
5. Amend its IMP BAP so that it consolidates all portions of Respondent's system and includes: 1) the required assessment schedule; 2) an explanation of assessment methods selected and; 3) the risk analysis results used to establish the schedule;
6. Amend its IMP BAP to include a process for revising the BAP and appropriately documenting those revisions;
7. Amend its IMP baseline assessment schedule to ensure that 50% of Category 2 pipe are assessed by the applicable regulatory deadline;
8. Amend its IMP to include a process for the incorporation of changes that may cause new segments of its pipeline to affect a HCA;
9. Amend its IMP to include training and qualification requirements for personnel performing key integrity management functions (e.g., review of assessment results, risk analysis);
10. Amend its IMP to include criteria for: 1) vendor in-line-inspection (ILI) tool tolerances; 2) vendor reporting requirements; 3) operator/vendor process for resolution of variances and problems; 4) vendor ILI assessment personnel qualifications. One possible solution is to develop vendor specifications;
11. Amend its IMP to include a process to correlate ILI indications with other data such as cathodic protection (CP) monitoring, one-call records, etc;
12. Amend its IMP to include processes for validating assessment results and for making tool tolerance adjustments resulting from validation activities;

13. Amend its IMP to include a method for determining the amount of immediate repair pressure reduction, or provide guidance to use an alternate 20% pressure reduction, when ASME/ANSI B31.4 451.7 does not apply;
14. Amend its IMP to include a process for the prioritization and scheduling of remediation activities resulting from assessment activities [Ref. §192.452(h)(3)];
15. Amend its IMP to include procedures to notify PHMSA if the remediation schedule can not be met and safety can not be provided through a temporary reduction in pressure;
16. Amend its IMP risk analysis process to ensure risk factors reflect the risk conditions on the pipeline segment. The factors an operator must consider include, but are not limited to all of the risk factors listed under § 195.452(e)(1);
17. Amend its IMP risk analysis process to ensure that the dominant causes of risk are readily identifiable;
18. Amend its IMP risk analysis process to ensure that probability of failure (POF) categories are not weighted equally, but instead properly reflect system-specific and industry threat history;
19. Amend its IMP risk analysis process to ensure that consequence of failure (COF) categories weight public safety and environmental considerations appropriately and that do not over emphasize non-safety considerations such as business impacts;
20. Amend its IMP risk analysis process to ensure that the application of the risk analysis process is to pipeline segments that could affect a HCA and not to pipeline sections that have in their length one or more pipeline segment(s) that could affect HCAs;
21. Amend its IMP risk analysis process to include the application of the risk analysis process to all pipeline facilities;
22. Amend its IMP preventative and mitigative measures to include a determination of the likelihood of a pipeline release occurring and how such a release could affect a HCA. At a minimum the following risk factors shall be considered; terrain surrounding the pipeline segment, including drainage systems such as small streams and other smaller waterways that could act as a conduit to the HCA, elevation profile, characteristics of the product transported, amount of product that could be released, possibility of a spillage in a farm field following the drain tile into a waterway, ditches along side a roadway the pipeline crosses, physical support of the pipeline segment such as by a cable suspension bridge, exposure of the pipeline to operating pressure exceeding established maximum operating pressure;

23. Amend its IMP to include an evaluation of potential preventative and mitigative measures to prevent or minimize the likelihood of a pipeline release. The preventative and mitigative measures may include, but are not limited to; implementing damage prevention best practices, better monitoring of CP where corrosion is a concern, establishing shorter inspection intervals, installing emergency flow restriction devices (EFRDs) on the pipeline segment, modifying the systems that monitor pressure and detect leaks, providing additional training to personnel on response procedures, conducting drills with local emergency responders and adopting other management controls;
24. Amend its IMP preventative and mitigative measures to include a process to evaluate the capability of leak detection on their system and a process to modify their leak detection capability, as necessary, to protect HCAs. The evaluation process must, at least, consider, the following factors—length and size of the pipeline, type of product carried, the pipeline’s proximity to the HCA, the swiftness of leak detection, location of nearest response personnel, leak history, and risk assessment results;
25. Amend its IMP preventative and mitigative measures to include an analytical process for determining if an EFRD is needed on a pipeline segment to protect a HCA in the event of a hazardous liquid pipeline release. At a minimum this analysis shall consider the following factors—the swiftness of leak detection and pipeline shutdown capabilities, the type of commodity carried, the rate of potential leakage, the volume that can be released, topography or pipeline profile, the potential for ignition, proximity to power sources, location of nearest response personnel, specific terrain between the pipeline segment and the HCA, and benefits expected by reducing the spill size;
26. Amend its IMP to include processes for the technical justification of the reassessment interval for each assessment section. Five years is not a default reassessment interval. The reassessment interval must be justified;
27. Amend its IMP to include provisions for notifications to PHMSA for: 1) reassessment variances and 2) the use of other technology, as needed;
28. Amend its IMP to include a monitoring and evaluation process for determining the program’s effectiveness in assessing and evaluating the integrity of each pipeline segment in protecting the HCAs; and
29. In complying with each of these items in this Amendment of Procedures section, ensure that the required processes and procedures have the four characteristics identified as (a) through (d) below. The items all relate to the need for Respondent to improve its IMP documentation. PHMSA recognizes that a number of program elements are still in the development stage, and that documentation will continue to evolve as methods are fully developed and defined. However, these procedures as well as the management and analytical process guidance used to implement the program must be of sufficient detail and specificity to:

- a. Clearly articulate the necessary steps to perform each program element and ensure repeatability,
 - b. Describe the key input information sources,
 - c. Define the process output products, their documentation (including the justification for decisions), and document retention requirements, and
 - d. Specify organizational responsibilities for performing key process steps.
30. Submit the amended procedures and technical justifications to the Director, Western Region, PHMSA within 30 days following receipt of this Order Directing Amendment.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by Respondent demonstrating good cause for an extension.

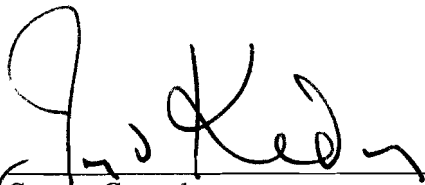
Failure to comply with this Order Directing Amendment may result in the assessment of civil penalties of up to \$100,000 per violation per day, or in the referral of the case for judicial enforcement.

WARNING ITEM

The Notice did not propose a civil penalty or corrective action for Item 3(a). Therefore, this is considered to be a warning item. Respondent is warned that if it does not take appropriate action to correct this item, enforcement will be taken if a subsequent inspection reveals a violation.

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 corrective action and amendment of procedures, remain in full effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order are effective on receipt.

for



Stacey Gerard
Associate Administrator
for Pipeline Safety

JUL 10 2006

Date Issued