



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety Administration**

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

OCT 12 2006

Mr. Gary Goldberg  
President and CEO  
US Borax, Inc.  
14486 Borax Road  
Boron, CA 93516-2000

Re: CPF No. 5-2005-0020

Dear Mr. Goldberg:

Enclosed is the Final Order issued by the Acting Associate Administrator for Pipeline Safety in the above-referenced case. It makes a finding of violation, assesses a civil penalty of \$5,000 for that violation, and specifies actions to be taken to comply with the pipeline safety regulations. I acknowledge receipt of and accept your wire transfer for \$5,000 as payment in full of the civil penalty assessed in the Final Order. When the terms of the Compliance Order are completed, as determined by the Director, Western Region, PHMSA, 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  
PHMSA-Office of Pipeline Safety

Enclosure

cc: Mr. Chris Hoidal, P.E., Director Western Region, PHMSA  
Mr. Walt Biehl, Energy Manager, US Borax, Inc.

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

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

|                         |   |                            |
|-------------------------|---|----------------------------|
| <b>In the Matter of</b> | ) |                            |
|                         | ) |                            |
| <b>US Borax, Inc.</b>   | ) | <b>CPF No. 5-2005-0020</b> |
|                         | ) |                            |
| <b>Respondent</b>       | ) |                            |

**FINAL ORDER**

On May 10, 2005, pursuant to 49 U.S.C. § 60117, a representative 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 Operator Qualification (OQ) of Pipeline Personnel program in Boron, California. As a result of the inspection, the Director, Western Region, PHMSA, issued to Respondent, by letter dated October 17, 2005, 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 committed a violation of 49 C.F.R. Part 192, and proposed assessing a civil penalty of \$5,000 for the alleged violation. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violation.

After requesting by letter dated November 10, 2005 and receiving an extension of time to respond, Respondent responded to the Notice by letter dated January 27, 2006 and a supplemental on July 18, 2006 (Response). Respondent agreed to pay the proposed civil penalty, waiving further right to respond and authorizing the entry of this Final Order. Respondent did not contest the allegation of violation but provided information concerning the corrective actions it has taken. Respondent did not request a hearing, and therefore has waived its right to one.

**FINDING OF VIOLATION**

In its Response, Respondent did not contest the alleged violation in the Notice. Accordingly, I find that Respondent violated the following section of 49 C.F.R. Part 192, as more fully described in the Notice:

Item 1— 49 C.F.R. § 192.809—failing to have a written Operator Qualification program for its pipeline personnel in place.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent. Having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,000, already paid by Respondent.

### **COMPLIANCE ORDER**

The Notice proposed a Compliance Order with respect to the violation. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas 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. Respondent must--

1. Provide a written OQ program applicable to its pipeline that addresses the requirement to identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed and maintain records that demonstrate compliance with 49 C.F.R. § 192 Subpart N.
2. Respondent shall maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Director, Western Region, PHMSA. Costs shall be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.
3. Within 60 days of receipt of the Final Order, submit documentation of procedures, costs and evidence of actions taken to the Director, Western Region, Pipeline and Hazardous Materials Safety Administration, 12300 West Dakota Avenue, Suite 110, Lakewood, Colorado 80228. Please refer to CPF No. 5-2005-0020 on any correspondence or communication in these matters.

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

With the exception of the corrective action for Proposed Compliance Item 1.g. in the Notice, the Director, Western Region, PHMSA has indicated that Respondent has taken the following actions to address the violation:

In regard to Notice Item 1, Respondent submitted an OQ document, "Pipeline Operations Task Qualification Standard," dated July 18, 2006. This OQ document was reviewed for compliance to the Proposed Compliance Order dated October 17, 2005. All items of the Proposed Compliance Order were satisfied except Item 1.g., which requires US Borax, Inc. to identify the covered tasks and the intervals at which re-evaluation of an individual's qualifications are needed. US Borax identified six covered tasks for its pipeline system, but the intervals at which re-evaluation of an individual's qualification were not addressed and documented.

Failure to comply with this Final Order 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.

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



*for*  
Theodore L. Willke  
Acting Associate Administrator  
for Pipeline Safety

OCT 12 2006

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Date Issued