



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety Administration**

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

FEB - 6 1996

Robert P. Carone
President
Pacific Operators Offshore, LLC
6307 Carpinteria Ave
Carpinteria, CA 93013-3013

Re: CPF No. 5-2004-2002

Dear Mr. Carone:

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 \$10,000. The Order also finds that you have addressed the inadequacies in your procedures that were cited in the Notice of Amendment. When the civil penalty is paid, this enforcement action will be closed. The penalty payment terms are set forth in the Final Order. Your receipt of the Final Order constitutes service 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. Clement M. Alberts, Pacific Operators Offshore LLC, Environmental Coordinator

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

Pacific Operators Offshore, LLC,

Respondent

CPF No. 5-2004-2002

FINAL ORDER

Between August 13 and August 14, 2002, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration's (PHMSA's)¹ Office of Pipeline Safety conducted an on-site pipeline safety inspection of Respondent's pipeline facilities, manuals, and records in La Conchita, California. As a result of the inspection, the Director, Western Region, PHMSA, issued to Respondent, by letter dated March 12, 2004, a Notice of Probable Violation, Proposed Civil Penalty, and Notice of Amendment (Notice).² In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent committed violations of 49 C.F.R. Parts 191 and 192 and proposed assessing a civil penalty of \$22,500 for the alleged violations. The Notice also proposed, in accordance with 49 C.F.R. § 190.237, that Respondent amend its procedures for Operations, Maintenance, and Emergencies.

After requesting and receiving an extension of time to respond, Respondent responded to the Notice by letter dated June 11, 2004 that was later supplemented per PHMSA's request for further information (Response). Respondent did contest two of the allegations and offered information for review for many of the allegations and citations of inadequacy. In the June 11, 2004 Response, Respondent did not request a hearing, and therefore has waived its right to one.

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.

² On March 22, 2004, Respondent was notified that the Notice's CPF Number changed from CPF No. 5-2004-7002 to CPF 5-2004-2002.

FINDINGS OF VIOLATION

(Uncontested)

In its Response, Respondent did not contest many of the alleged violations in the Notice. Accordingly, I find that Respondent violated the following sections of 49 C.F.R. Parts 191 and 192, as more fully described in the Notice:

Item 1 - 49 C.F.R. § 191.17 – failing to submit annual report for three years;

Item 4 - 49 C.F.R. § 192.477 – failing to inspect for internal corrosion within prescribed intervals;

Item 5 - 49 C.F.R. § 192.481 –failing to inspect for atmospheric corrosion within prescribed intervals;

Item 6 - 49 C.F.R. § 192.605(a) – failing to review and update O&M manuals for five years;

Item 10 - 49 C.F.R. § 192.615(c) – failing to substantiate that it maintained liaison activities with public officials; and

Item 11 - 49 C.F.R. § 192.705(b) – failing to conduct right-of-way inspections two times per year for three years.

(Contested)

Item 2 in the Notice alleged Respondent violated 49 C.F.R. § 192.465(b) for failing to inspect rectifiers within the prescribed intervals, as more fully described in the Notice. In its Response, Respondent requested that this allegation be withdrawn and indicates that it provided documentation. However, with respect to Notice Item 2, the documentation did not provide any information regarding the inspection dates in question (November 26, 1999 to March 10, 2000). Accordingly, I find that Respondent violated 49 C.F.R. § 192.465(b) by failing to inspect rectifiers within the prescribed intervals.

Item 3 in the Notice alleged Respondent violated 49 C.F.R. § 192.467(c) for failing to act on a suspected pipeline casing electrical short, as more fully described in the Notice. In its Response, Respondent states that the charge significantly overstated the facts. Here, supporting evidence that would indicate such was not provided. In its Response, Respondent indicates that since the receipt of the Notice, it has fully repaired the problem. In this case, the repair was made after the inspection. Accordingly, I find that Respondent violated 49 C.F.R. § 192.467(c) by failing to act on a suspected pipeline casing electrical short.

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.³

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 \$22,500 for the violations.

Item 1 of the Notice proposed a civil penalty of \$6,000 for violation of 49 C.F.R. § 191.17(a) in that, at the time of inspection, Respondent failed to file FORM RSPA 7100.2-1 for years 2000, 2001, and 2002. Respondent conceded this allegation and indicates it is submitting the subject report for all years per the Notice. Respondent requests that the information submitted in its response be taken into consideration in determining the amount of civil penalty. In accordance with 49 C.F.R. § 191.17(a), an operator of a transmission or a gathering pipeline system shall submit an annual report for that system on Department of Transportation Form RSPA 7100.2-1. This report must be submitted each year, not later than March 15, for the preceding calendar year.

Item 2 of the Notice proposed a civil penalty of \$1,000 for violation of 49 C.F.R. §192.465(b) in that, at the time of inspection, Respondent's rectifier records indicated that the rectifier on platform Hogan was not read within 2.5 months as required by the regulation. Respondent requests that this allegation be withdrawn. However, the documentation provided by Respondent did not provide any information regarding the inspection dates in question.

Item 3 of the Notice proposed a civil penalty of \$2,000 for violation of 49 C.F.R. §192.467(c), as more fully described in the Notice, in that Respondent failed to act on a suspected pipeline casing electrical short. In its Response, Respondent stated that it has since fully repaired the problem and does not anticipate a recurrence of this particular issue and requested that the proposed penalty for this allegation be significantly mitigated or withdrawn.

Item 4 of the Notice proposed a civil penalty of \$3,000 for violation of 49 C.F.R. §192.477 in that Respondent failed to inspect for internal corrosion within prescribed intervals, as more fully described in the Notice. The regulation requires that if corrosive gas is being transported, coupons or other suitable means must be used to determine the effectiveness of the steps taken to minimize internal corrosion. Each coupon or other means of monitoring internal corrosion must be checked two times each calendar year, but with intervals not exceeding 7 ½ months. Here, the gas transported from Platform Hogan to La Conchita Plant contains water. Respondent was using coupons to monitor the internal corrosion of its pipeline. A coupon was installed on

³ The Pipeline Safety Improvement Act of 2002, Pub.L.No. 107-355, § 8(b)(1), 116 Stat. 2992, increased the civil penalty liability for violating a pipeline safety standard to \$100,000 per violation for each day of the violation up to a maximum of \$1,000,000 for any related series of violations.

January 27, 2000 and removed for inspection on October 24, 2000; the maximum interval of 7 ½ months was exceeded by 43 days. And again, a coupon was installed on October 24, 2000 and removed for inspection on July 13, 2001; the maximum interval of 7 ½ months was exceeded by 33 days. During the inspection, no evidence of internal corrosion was observed. In its Response, Respondent indicates that it has adjusted its internal inspection procedures and does not anticipate a recurrence of this particular issue. Respondent requested reconsideration of the amount of penalty proposed for this violation.

Item 5 of the Notice proposed a civil penalty of \$3,000 for violation of 49 C.F.R. §192.481, as more fully described in the Notice, in that Respondent failed to inspect for atmospheric corrosion within prescribed intervals. In accordance with the regulation, operators shall, at intervals not exceeding three years for onshore pipeline and at least once each calendar year, but with intervals not exceeding 15 months, for offshore pipelines, reevaluate each pipeline that is exposed to the atmosphere and take remedial action whenever necessary to maintain protection against atmospheric corrosion. Here, Respondent has pipelines that are exposed to the atmosphere aboard Platform Hogan and at its La Conchita Gas Plant. At the time of inspection, Respondent did not provide documentation that it performed three atmospheric corrosion inspections on the exposed portion of its pipeline at Platform Hogan and one inspection at La Conchita Gas Plant for the period of April 1999 to August 2002. During this inspection, atmospheric corrosion was not observed. In its Response, Respondent indicated that it has adjusted its internal inspection documentation procedures and does not anticipate a recurrence of this particular issue. Respondent requested reconsideration of the amount of penalty proposed for this violation.

Item 6 of the Notice proposed a civil penalty of \$5,000 for violation of 49 C.F.R. §192.605(a) in that Respondent failed to review and update O&M manuals for five years. In its Response, Respondent states that it has performed the required review and adjusted its internal procedures so that it does not anticipate a recurrence of this particular issue.

Item 10 of the Notice proposed a civil penalty of \$1,000 for violation of 49 C.F.R. §192.615(c) in that Respondent failed to substantiate that it maintained liaison activities with public officials. Respondent stated that it has adjusted its internal documentation procedures and does not anticipate a recurrence of this particular issue.

Item 11 of the Notice proposed a civil penalty of \$1,500 for violation of 49 C.F.R. §192.705(b) in that Respondent failed to conduct right-of-way inspections two times per year for three years. Respondent states that it has adjusted its internal procedures so that it does not anticipate a recurrence of this particular issue.

In the Notice, a total civil penalty of \$22,500 was proposed for the alleged violations with respect to the pipeline, which is located in a class 1 area and passes through navigable waters. Respondent submitted information and responses for Western Region staff to review. Staff evaluating information at hand, informs me that the facilities are only marginally viable from an economic standpoint. Furthermore, the Regional Director recommends reduction of the civil penalty due to reflect the cooperation and perceived intent shown by Respondent.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$10,000 as follows:

Notice Item #	Original CP	Revised CP
1	\$6,000.00	\$2,000.00
2	\$1,000.00	\$500.00
3	\$2,000.00	\$1,500.00
4	\$3,000.00	\$1,000.00
5	\$3,000.00	\$1,000.00
6	\$5,000.00	\$3,000.00
10	\$1,000.00	\$500.00
11	\$1,500.00	\$500.00
Total	\$22,500.00	\$10,000.00

Payment of the civil penalty must be made within 20 days of service. Payment may 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-300), P.O. Box 25082, 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. 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.

AMENDMENT OF PROCEDURES

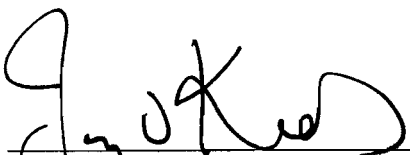
Notice Items 7(a-f), 8, and 9 alleged inadequacies in Respondent's procedures/plans and proposed to require amendment of Respondent's procedures to comply with the requirements of 49 C.F.R. § 192.605(a)(b)(2) (Notice Item 7), 49 C.F.R. § 192.614 (a) and (c)(6)(ii) (Notice Item 8), 49 C.F.R. § 192.615(a)(3)(iv) (Notice Item 9), as fully described in the Notice.


In a subsequent site visit, PHMSA reviewed Respondent's plans/procedures for completeness and it appeared that Respondent had satisfied Notice Items 7(a-f), 8, and 9. Accordingly, based on the results of this review, I find that Respondent's original procedures as described in the Notice were inadequate to ensure safe operation of its pipeline system, but that Respondent has corrected the identified inadequacies. No need exists to issue an Order Directing Amendment.

WARNING ITEMS

The Notice did not propose a civil penalty or corrective action for Notice Item 12 for Respondent failing to have a line marker on its pipeline south of Highway 101 in compliance with 49 C.F.R. § 192.707(a)(1-2) and Notice Item 13 for Respondent failing to produce records to evidence repair in compliance with 49 C.F.R. § 192.709(a) but warned Respondent that it should take appropriate corrective action to correct the items. In its Response, Respondent stated that it has taken action towards addressing the cited items. Respondent is again warned that if PHMSA finds a violation for any of these items in a subsequent inspection, enforcement action will be taken.

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 decision and the right to petition for reconsideration is waived. The terms and conditions of this Final Order are effective on receipt.



 Jeffrey D. Wiese
Acting Associate Administrator
for Pipeline Safety

FEB - 6 2007

Date Issued