

Rick A. Olsen
Vice President, Pipeline Operations
Magellan Pipeline Company
One Williams Center
P.O. Box 22186
Tulsa, OK 74121-2186

Re: CPF No. 4-2004-5006

Dear Mr. Olsen:

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 \$105,000. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon payment. 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: Rod M. Seeley
Director, Southwest Region, OPS

Michael C. Pearson
Manager, Asset Integrity, Magellan Midstream Partners, L.P.

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

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|---------------------------|---|---------------------|
| In the Matter of |) | |
| |) | |
| Magellan Pipeline Company |) | CPF No. 4-2004-5006 |
| |) | |
| Respondent. |) | |
| |) | |

FINAL ORDER

On May 5-9 and May 19-23, 2003, pursuant to 49 U.S.C. § 60117, representatives of the Office of Pipeline Safety (OPS) conducted an on-site pipeline safety inspection of Respondent's facilities and records in Tulsa, Oklahoma. As a result of the inspection, the Director, Southwest Region, OPS, issued to Respondent, by letter dated March 15, 2004, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had violated 49 C.F.R. § 195.452 and proposed assessing a civil penalty of \$105,000 for the alleged violation.

Respondent responded to the Notice by letter dated April 16, 2004 (Response). In its response, Respondent indicated that it had additional information that it believed was relevant to the alleged violation that was not provided to OPS at the time of the inspection and requested a hearing. The hearing was held in Houston, Texas on September 15, 2004.

FINDING OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(4)(i) by failing to temporarily reduce operating pressure or shut down its Tulsa to Shelton #3 12-inch pipeline immediately following its identification of numerous anomalies meeting the criteria for "immediate repair conditions" until repairs of these conditions could be completed. With respect to seven of the immediate repair conditions, the Notice alleged that Respondent failed to respond until approximately one month after the integrity assessment in which they were identified was conducted.

At the hearing, Respondent explained that under the policy it had in place at the time, it did not designate the date of "discovery" of a repair condition as the date that the anomaly was identified in the integrity assessment, but rather, it designated the discovery date as the date the identified anomaly was subsequently excavated (and repaired). Under § 195.452(h)(2), however, discovery of a condition occurs "when an operator has adequate information about the condition to determine that the condition represents a potential threat" to the integrity of the pipeline. In this case, the integrity

assessment was conducted by internal inspection, meaning that information such as the percentage of metal loss from corrosion and the magnitude of dent-type deformations sufficient to enable a determination that the potential exists for an integrity threat at the corresponding location was available to Respondent in the internal inspection results. Therefore, Respondent was not justified in failing to take remedial measures until subsequent excavations were performed. Accordingly, I find that Respondent violated § 195.452(h)(4)(i) by failing to temporarily reduce operating pressure or shut down its Tulsa to Shelton #3 12-inch pipeline immediately following its identification of the seven specified anomalies meeting the criteria for immediate repair conditions.

This finding of violation will be considered a prior offense 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 civil penalty of \$105,000 for Respondent's failure to take immediate action following its identification of certain anomalies on its Tulsa to Shelton #3 12-inch pipeline meeting the applicable criteria for immediate repair conditions. At the hearing, Respondent acknowledged its failure to take immediate action with respect to the seven specified conditions, but explained that it had now changed its policy in this regard and that as a result, it now designated discovery as the time of the integrity assessment, not the time a subsequent excavation was conducted.

The integrity management program regulations require pipeline operators to take immediate action including temporarily reducing operating pressure or shutting down a line until repairs can be made when anomalies meeting the criteria for immediate repair conditions are identified in the course of an integrity assessment. Under paragraph (I) of § 195.452(h)(4), immediate repair conditions include those in which 80 percent of the pipe wall thickness has been lost due to corrosion, a significant reduction in remaining pipe wall strength has occurred, or dents greater than 6 percent the pipe diameter are present. For conditions that are less likely to constitute immediate threats, paragraphs (ii) and (iii) of the regulation provide operators with additional time for taking appropriate action. While Respondent eventually changed its policy to bring its discovery practices into compliance with the regulation, taking immediate action when an integrity threatening condition is identified is a fundamental obligation of all pipeline operators and should never have been compromised in formulating its company policy to begin with. Respondent has not submitted information that

would warrant a reduction in the civil penalty amount proposed in the Notice for this violation. Accordingly, I assess Respondent a civil penalty of \$105,000 for the above-described violation of 49 C.F.R. § 195.452(h)(4)(i).

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-120), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125; (405) 954-8893.

Failure to pay the \$105,000 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.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a petition for reconsideration of this Final Order. Should Respondent elect to do so, 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 a petition automatically stays the payment of any civil penalty assessed. However if Respondent submits payment of 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.

Stacey Gerard
Associate Administrator
for Pipeline Safety

Date Issued