



U.S. Department  
of Transportation

**Pipeline and  
Hazardous Materials Safety  
Administration**

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

JUN 21 2006

Mr. Wilson Groen  
President  
Navajo Nation Oil and Gas Company  
P.O. Box 4439  
Window Rock, AZ 86515-4439

Re: CPF No. 4-2005-5009

Dear Mr. Groen:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$5,000. It further finds that you have completed the actions specified in the Notice required to comply with the pipeline safety regulations. When the civil penalty is paid, 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**

**Navajo Nation Oil and Gas Company,**

**Respondent**

**CPF No. 4-2005-5009**

**FINAL ORDER**

On October 12–15, 2004, pursuant to 49 U.S.C. § 60117, a representative of the Research and Special Programs Administration, Office of Pipeline Safety, conducted an on-site pipeline safety inspection of Respondent’s Integrity Management Program (IMP) in Window Rock, Arizona.<sup>1</sup> As a result of the inspection, the Director, Southwest Region, issued to Respondent, by letter dated January 7, 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 violated 49 C.F.R. § 195.452(b)(2) 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.

Respondent responded to the Notice by letter dated February 2, 2005. Respondent did not contest the allegation of violation and stated that it would comply with the Proposed Compliance Order. Respondent submitted documentation of corrective action by letter dated October 23, 2005, and requested that the proposed civil penalty be reduced or eliminated. 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 violation alleged in the Notice and stated that it would comply with the Proposed Compliance Order. Accordingly, I find that Respondent violated the following section of 49 C.F.R. Part 195, as more fully described in the Notice:

49 C.F.R. § 195.452(b)(2) – failing to identify each pipeline or pipeline segment that could affect a high consequence area (HCA). Respondent failed to analyze the potential

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<sup>1</sup> The Norman Y. Mineta Research and Special Programs Improvement Act, Pub. L. No. 108-426, 118 Stat. 2423 (2004), created the Pipeline and Hazardous Materials Safety Administration (PHMSA) and transferred the authority of RSPA exercised under chapter 601 of title 49, United States Code, to the Administrator of PHMSA. *See also* 70 Fed. Reg. 8299, 8301-8302 (2005).

effect of failures on pipeline segments that do not directly intersect an HCA, but could still affect an HCA. Respondent also did not have a procedure for analyzing the potential effect of failures on segments that do not directly intersect an HCA.

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. The Notice proposed a total civil penalty of \$5,000 for the violation of 49 C.F.R. § 195.452(b)(2).

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.

In response to the Notice, Respondent provided explanation concerning the violation and stated that it has taken action to achieve compliance with the applicable regulation. While Respondent did undertake corrective measures to achieve compliance, those measures do not justify a reduction in the civil penalty proposed for the violation, because the measures were taken after the inspection and in response to this enforcement action. Respondent has not submitted information that would warrant a reduction in the proposed civil penalty amount.

Failure to identify each pipeline or pipeline segment that could affect an HCA may preclude the assessment, evaluation, repair and validation through comprehensive analysis of the integrity of each hazardous liquid pipeline segment that, in the event of a leak or failure, could affect an HCA.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$5,000. 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. 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.

Failure to pay the \$5,000 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.

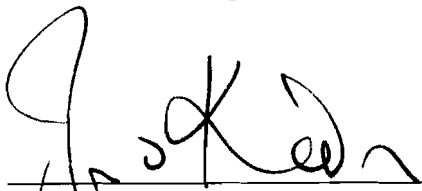
### COMPLIANCE ORDER

The Notice proposed a compliance order for the violation of 49 C.F.R. § 195.452(b)(2). 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. The Director, Southwest Region, has indicated that Respondent has taken the following actions specified in the Proposed Compliance Order:

Respondent has documented its process for identifying pipeline segments that could affect an HCA and has applied that process to each pipeline system in Respondent's IMP.

Accordingly, since compliance has been achieved with respect to this violation, it is not necessary to include the compliance terms in this Order.

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

  
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Stacey Gerard  
Associate Administrator  
for Pipeline Safety

JUN 21 2006

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Date Issued