U.S. Department
of Transportation
Pipeline and Hazardous Materials Safety Administration

1200 New Jersey Ave., S.E.
Washington, DC 20590

JUN 10 2008

Mr. David A. Justin
Vice President
Sunoco Logistics Partners, L.P.
Sunoco Pipeline L.P.
Eastern Area Headquarters
525 Fritztown Road
Sinking Spring, PA 19608

Re: CPF No. 1-2005-5005

Dear Mr. Justin:

Enclosed is the Final Order issued in the above-referenced case. It withdraws one of the allegations of violation, makes certain other findings of violation, assesses a civil penalty of $50,000, and finds that Sunoco has completed the actions specified in the Notice of Probable Violation to bring the company into compliance with PHMSA regulations.

When the civil penalty has been 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 of that document under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

William A Gute
for

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Byron Coy, Director, Eastern Region, PHMSA

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590

In the Matter of	)	
Sunoco Pipeline L.P.,	)	**CPF No. 1-2005-5005**
Respondent.	)	

FINAL ORDER

During the weeks of June 16 and July 7, 2003, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA),[1] Office of Pipeline Safety, Eastern Region conducted an on-site inspection of Sunoco Pipeline L.P.'s (Sunoco's or Respondent's) Integrity Management Program (IMP) at the company's facilities in Honey Brook, Pennsylvania. Sunoco operates an interstate petroleum pipeline system that is divided into two sections: The Eastern Area, consisting of six states, and The Western Area, consisting of nine states.

As a result of the inspection, the Director, Eastern Region, Office of Pipeline Safety (Director), issued to Respondent, by letter dated March 30, 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 had violated 49 C.F.R. § 195.452, assessing a civil penalty of $70,000 for the alleged violations, and ordering Respondent to take certain measures to correct the alleged violations. The Notice also proposed finding that Respondent had committed other probable violations of 49 C.F.R. §§ 195.452(e), 195.452(f), and 195.452(c), and warning Respondent to take appropriate corrective action to address them or be subject to future enforcement action.

Respondent requested and received a 30-day extension to respond to the Notice.

[1] Effective February 20, 2005, the Pipeline and Hazardous Materials Safety Administration (PHMSA) succeeded the Research and Special Programs Administration as the agency responsible for regulating safety in pipeline transportation and hazardous materials transportation. See, § 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) redelegating the pipeline safety authorities and functions to the PHMSA Administrator.

Sunoco responded to the Notice by letter dated July 27, 2005 (Response). The company contested the allegations of violation, provided information concerning the corrective actions it had taken, and requested that the proposed civil penalties be withdrawn. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. § Part 195 as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(b)(3), which states:

> **§ 195.452(b) – Pipeline integrity management in high consequence areas.**
>
> (a) .....
>
> (b) *What program and practices must operators use to manage pipeline integrity?* Each operator of a pipeline covered by this section must:.....
>
> (3) Include in the program a plan to carry out baseline assessments of line pipe as required by paragraph (c) of this section.....
>
> (c) *What must be in the baseline assessment plan?* (1) An operator must include each of the following elements in its written baseline assessment plan:
>
> (i) The methods selected to assess the integrity of the line pipe. An operator must assess the integrity of the line pipe by any of the following methods. The methods an operator selects to assess low frequency electric resistance welded pipe or lap welded pipe susceptible to longitudinal seam failure must be capable of assessing seam integrity and of detecting corrosion and deformation anomalies.

The Notice alleged that Respondent failed to account for the risk of pre-1970 low frequency, electric resistance weld (LF-ERW) pipe in its baseline assessment plan (BAP). In its Response, Sunoco indicated that at the time of the inspection, its BAP did account for the risk of pre-1970 LF-ERW pipe "by including risk factors within the respective Risk Models" for such pipe. Based upon its evaluation of such risk factors, Respondent had concluded that no segments containing pre-1970 LF-ERW were susceptible to seam failure. The company acknowledged, however, that since the date of the inspection, it had determined, upon further study, that its LF-ERW pipe did indeed pose a relative risk of seam failure and had made "significant progress" in revising its assessment methods. Based upon such information, I find that as of the date of the inspection, Respondent violated 49 C.F.R. §195.452(b)(3) by failing to include in its BAP an element that properly assessed pre-1970 LF-ERW pipe susceptible to longitudinal seam failure.

Item 2(a): The Notice alleged that Respondent violated 49 C.F.R. § 195.452(e)(1) which states:

> **§ 195.452 Pipeline integrity management in high consequence areas.**
>
> (a) .....
>
> (e) *What are the risk factors for establishing an assessment schedule (for both the baseline and continual integrity assessments)?*

(1) An operator must establish an integrity assessment schedule that prioritizes pipeline segments for assessment (see paragraphs (d)(1) and (j)(3) of this section). An operator must base the assessment schedule on all risk factors that reflect the risk conditions on the pipeline segment. The factors an operator must consider include, but are not limited to:

(i) Results of the previous integrity assessment, defect type and size that the assessment method can detect, and defect growth rate;
(ii) Pipe size, material, manufacturing information, coating type and condition, and seam type;
(iii) Leak history, repair history and cathodic protection history;
(iv) Product transported;
(v) Operating stress level;
(vi) Existing or projected activities in the area;
(vii) Local environmental factors that could affect the pipeline *(e.g.,* corrosivity of soil, subsidence, climatic);
(viii) Geo-technical hazards; and
(ix) Physical support of the segment such as by a cable suspension bridge.

The Notice alleged that Respondent failed to establish an assessment schedule based upon risk models that were correlated directly to the presence of High Consequence Areas (HCAs). Specifically, it alleged that Respondent was unable to demonstrate that its BAP schedule for either the Western or Eastern Area would properly assess in a timely manner those pipeline segments that posed the greatest risk to HCAs. Sunoco responded that its risk models did indeed include risk factors related to population density, environmental damage from spills, and number of river crossings, and therefore met the requirements of § 195.452.

It is clear that Respondent's risk models were not *directly* correlated to the actual location of HCAs through the use of data from the National Pipeline Mapping System (NPMS). Because this data was lacking, Sunoco was unable to verify that its BAP schedule would assess lines posing the greatest risk to specific HCAs earlier in such schedule. Accordingly, I find that Respondent violated 49 C.F.R. § 195.452 (e)(1) on the basis stated above.

Item 2(c): The Notice alleged that Respondent violated 49 C.F.R. § 195.452(e)(1), as quoted above, by failing to establish an assessment schedule for its Eastern Area that was based upon a risk model taking into account all risk factors for that portion of its system. Specifically, the Notice alleged that the risk model failed to consider the potential risks attributable to depth of cover, internal corrosion, and operational factors, nor did it include a documented basis for excluding such factors.

In its Response, Respondent asserted that § 195.452(e) does not specifically require the use of a depth-of-cover risk factor and that its model implicitly accounted for depth of cover through the use of a factor for "outside force damage." It further asserted that internal corrosion was excluded as a risk factor because such corrosion had not shown itself historically to be an actual risk in the Eastern Area. Finally, it contended that operational factors were accounted for through consideration of "operating stress level as % SMYS" and "product type."

While these factors may have been considered implicitly, in the model, Respondent did not articulate these factors in a manner that could be clearly identified or reliably validated. For these reasons, I find that Respondent failed to establish an assessment schedule for its Eastern Area based upon a risk model that took into account all risk factors for that portion of Sunoco's system. Accordingly, I find that Respondent violated 49 C.F.R. § 195.452(e)(1) on the basis stated above.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

WITHDRAWAL OF ALLEGATIONS

Item 2(d): The Notice alleged that Respondent violated 49 C.F.R. § 195.452(e)(1), as quoted above, by failing to establish an assessment schedule for its Western Area that was based upon a risk model that took into account all risk factors for that part of its system. Specifically, it alleged that Sunoco failed to include risk factors for previous assessment results, operating stress level, and geo-technical (ground movement) hazards.

In its Response, Respondent submitted documentation demonstrating that seven factors had been considered, but not explicitly included, in its initial risk model for the Western Area. As for the three factors specifically set forth in Item 2(d), Respondent demonstrated that the Western Area analysis did not utilize the results of previous assessments because relatively few assessments had been conducted prior to the finalization of the rule. Operating stress levels and geo-technical hazards were also considered but were omitted because they had not been found historically to constitute a root cause of pipeline failures for the Western Area.

Upon review of such documentation, I find that Respondent expressly considered and rejected the factors listed above as of the date of inspection but had not been able to locate and explain such documentation to PHMSA at the time of the inspection. Accordingly, I hereby withdraw this allegation of violation.

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: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; the Respondent's ability to pay the penalty and any effect that the penalty may have on Respondent's ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of

subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of $70,000 for violations of 49 C.F.R. §§ 195.452(b)(3) and 195.452(e)(1).

Item 1 of the Notice proposed a penalty of $15,000 for failing to account for the risk of pre-1970 LF-ERW pipe in Respondent's BAP, in violation of 49 C.F.R. § 195.452(b)(3). It is critical in formulating its IMP that an operator develop a risk model that takes into account all of the risk factors that may affect its pipeline system, including materials, such as pre-1970 LF-ERW pipe, that are known to present an increased risk of failure. In consideration of the fact that Respondent demonstrated a good faith effort to achieve compliance prior to the date of inspection through its efforts to apply the Kiefner seam risk analysis and its current use of a thoroughly applied process, I hereby reduce the penalty amount from $15,000 to $10,000.

Item 2(a) of the Notice proposed a penalty of $25,000 for Respondent's failure to correlate its risk model directly to the presence of HCAs, in violation of 49 C.F.R. § 195.452(e)(1). The failure to include such data meant that Respondent was unable to ensure that its BAP schedule for either the Western or Eastern Area would assess in a timely manner those segments of pipe that posed the greatest risk to HCAs. The use of accurate NPMS data directly linking an operator's lines to the location of specific HCAs is critical to effective integrity management. I find that Respondent failed to provide information that would justify a reduction in the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of $25,000 for violating 49 C.F.R. § 195.452(e)(1).

Item 2(c) of the Notice proposed a penalty of $15,000 for Respondent's failure to include all potential risks in its Eastern Area risk model, including depth of cover, internal corrosion, and operational factors, or, in the alternative, to provide a documented basis for excluding such factors, in violation of 49 C.F.R. § 195.452(e)(1). Applying explicit risk factors would have allowed risk calculations and assumptions to be clearly identified, ranked, and eventually more easily substantiated. I find that Respondent failed to provide information that would justify a reduction in the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of $15,000 for violation of 49 C.F.R. § 195.452(e)(1).

Item 2(d) of the Notice proposed a penalty of $15,000 for Respondent's failure to include all potential risks in its Western Area risk model including previous assessment results, operating stress level, and geo-technical hazards, in violation of 49 C.F.R. § 195.452(e)(1). As noted above, Item 2d has been withdrawn. Therefore, the proposed civil penalty of $15,000 is moot.

In summary, having reviewed the record and considered the assessment criteria for Items 1, 2(a), and 2(c) above, I hereby assess Respondent a total civil penalty of **$50,000**. Respondent has provided no information indicating that its payment of the penalty would adversely affect 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-341), 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 **Items 1, 2(a), 2(c), and 2(d)**. As noted above, **Item 2(d)** has been withdrawn, so compliance terms for this Item are unnecessary. 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 has reviewed the corrective actions taken by Respondent in response to **Items 1, 2(a), and 2(c)** and has indicated that compliance has been achieved with respect to these violations. Accordingly, it is not necessary to include any compliance terms for these Items in this Final Order.

WARNING ITEMS

With respect to **Items 2(b), 3(a), 3(b), 3(c), and 4**, the Notice alleged probable violations of 49 C.F.R. §§ 195.452(e), 195.452(f), and 195.452(c), respectively, but did not propose a civil penalty or compliance order for these Items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 195.452(e)(1) (Notice Item 2(b)) — Respondent's alleged entry of two risk model variables in its Eastern Area model that were incorrect.

49 C.F.R. § 195.452(f)(1) (Notice Item 3(a)) — Respondent's alleged failure to show the impact of a spill flow path entering the Ohio River on the Cincinnati, Ohio, high consequence area.

49 C.F.R. § 195.452(f)(1) (Notice Item 3(b)) – Respondent's alleged failure to show the impact of a spill flow path entering the Maumee River on the Toledo, Ohio, high consequence area.

49 C.F.R. § 195.452(f)(1) (Notice Item 3(c)) – Respondent's alleged failure to show the OPA buffer zone on the Montello-Pittsburgh 8" line east of Pittsburgh, Pennsylvania.

49 C.F.R. § 195.452(c)(2) (Notice Item 4) – Respondent's alleged failure to document, prior to implementing any changes in its BAP, any modification to the plan and the reasons for such modifications.

Respondent presented information in its Response indicating that it had taken certain actions to address the cited warning items. The Director has reviewed the corrective actions taken by the Respondent and has indicated that these actions corrected the warning items. Having considered such information, I find, pursuant to 49 C.F.R. § 190.205, that probable violations of 49 C.F.R. § 195.452(e)(1) (Notice Item 2(b)), 49 C.F.R. § 195.452(f)(1) (Notice Items 3(a), 3(b) and 3(c)), and 49 C.F.R. § 195.452(c)(2) (Notice Item 4) had occurred as of the date of the inspection. In the event that PHMSA finds a violation for any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

In accordance with 49 U.S.C. § 60122 and 49 C.F.R. § 190.223, failure to comply with this Final Order, may result in the assessment of administrative civil penalties of not more than $100,000 per violation per day pursuant to 49 U.S.C. § 60122, or in the imposition of civil judicial penalties and other appropriate relief pursuant to 49 U.S.C. § 60120.

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 shall be effective upon receipt.

William H Gute
for

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

JUN 10 2008

Date Issued