



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety Administration**

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

JUL 26 2006

Mr. Steve McWhorter
Assistant Manager, Electrical Engineering & System
Norfolk Southern Corporation
1200 Peachtree Street, N.E. (Box:184)
Atlanta, GA 30309

RE: CPF No. 2-2005-6018

Dear Mr. McWhorter:

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. I acknowledge receipt of, and accept Norfolk Southern Corporation's payment dated November 14, 2005, in the amount of \$5,000 as payment in full of the civil penalty assessed in the Final Order. This case is now closed. 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: Ms. Linda Daugherty, Director, OPS Southern Region

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

In the Matter of

Norfolk Southern Corporation,

Respondent.

CPF No. 2-2005-6018

FINAL ORDER

Between April 13-15, 2005, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), Southern Region conducted an on-site pipeline safety inspection of Respondent's Brosnan Yard pipeline facilities and records in Macon, Georgia. As a result of the inspection, the Director, Southern Region, OPS, issued to Respondent, by letter dated October 20, 2005, 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 violated 49 C.F.R. § 195.420 and proposed assessing a civil penalty of \$5,000 for the alleged violation.

Respondent failed to respond within 30 days after it had received the Notice. Respondent's failure to respond constitutes a waiver of Respondent's right to contest the allegations in the Notice and authorizes the entry of this Final Order..

FINDINGS OF VIOLATION

Uncontested

Respondent did not contest the alleged violation of §195.420(b) in the Notice. Accordingly, I find that Respondent violated 49 C.F.R. Part 195, as more fully described in the Notice:

49 C.F.R. §195.420(b)—failure to inspect each mainline valve to determine that it is functioning properly at intervals not exceeding 7½ months, but at least twice each calendar year. Respondent only inspected its five (5) main line valves during calendar years 2003 and 2004.

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 \$5,000 civil penalty for violation of 49 C.F.R. § 195.420(b).

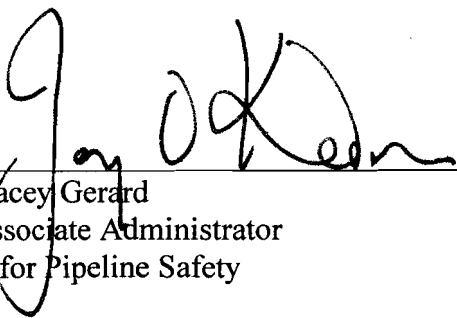
49 U.S.C. § 60122 and 49 C.F.R. § 190.225 require that, in determining the amount of the civil penalty, I consider the following criteria: nature, circumstances, and gravity of the violation, degree of Respondent's culpability, history of Respondent's prior offenses, Respondent's ability to pay the penalty, 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.

Item 2 of the Notice proposed a civil penalty of \$5,000, as Respondent failed to inspect its five (5) mainline valves to determine that they are functioning properly at intervals not exceeding 7½ months, but at least twice each calendar year. Respondent only inspected its five (5) main line valves during calendar years 2003 and 2004. Respondent did not contest the allegation of violation. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,000, already paid by Respondent.

WARNING ITEMS

The Notice did not propose a civil penalty or compliance action for Items 1, 3, and 4 in the Notice; therefore, these are considered warning items. Respondent is warned that if it does not take appropriate action to correct these items, enforcement action will be taken if a subsequent inspection reveals a violation.

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

for


Stacey Gerard
Associate Administrator
for Pipeline Safety

JUL 26 2006

Date Issued