

**I**

US Department  
of Transportation

**Research and  
Special Programs  
Administration**

August 1, 1997

Mr. James Wilkins  
Utilities Manager  
Georgia Pacific Corporation  
P.O. Box 520  
Crossett, Arkansas 71635

RE: CPF No. 23101

Dear Mr. Wilkins:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$3,000, and acknowledges the completion of certain corrective action. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Sincerely,

Gwendolyn M. Hill

Pipeline Compliance Registry  
Office of Pipeline Safety  
Enclosure

CERTIFIED MAIL - RETURN RECEIPT REQUESTED



DEPARTMENT OF TRANSPORTATION  
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION  
OFFICE OF PIPELINE SAFETY  
WASHINGTON, D.C. 20590

\_\_\_\_\_ )  
In the Matter of )

Georgia Pacific Corporation, Respondent. )

CPF No. 23101

\_\_\_\_\_ )

FINAL ORDER

On June 9-10, 1993, pursuant to 49 U.S.C. § 60117, a representative of the Office of Pipeline Safety (OPS) conducted an on-site pipeline safety inspection of Respondent's facilities and records in Crossett, Arkansas. As a result of the inspection, the Director, Southern Region, OPS, issued to Respondent, by letter dated August 9, 1993, 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 committed violations of 49 C.F.R. §§ 192 and 199, proposed assessing civil penalties of \$2,000 for the alleged violation of 49 C.F.R. § 192.614 and \$1,000 for the alleged violation of 49 C.F.R. § 199.7. The Notice also proposed that Respondent take certain measures to correct the alleged violation of 49 C.F.R. §§ 192.225, 192.603, 192.614 and 199.7.

Respondent responded to the Notice by letter dated October 15, 1993 (Response) . Respondent did not contest the allegations of violation but offered an explanation and proposed the execution of a consent order and the dismissal of the civil penalty upon full compliance. Respondent also provided information concerning the corrective actions it has and will take. Respondent has not requested a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

Respondent did not contest the alleged violations in the Notice. Accordingly, I find that Respondent violated the following sections of 49 C.F.R. Parts 192 and 199 as more fully described in the Notice:

49 C.F.R. § 192.225(b)--failing to establish and record adequate welding procedures;

49 C.F.R. § 192.603(b)--failing to adequately establish written operations and maintenance plans, and maintain records necessary to administer the plans;

49 C.F.R. § 192.614--failing to establish a written damage prevention program; and

49 C.F.R. § 199.7--failing to adequately establish a written anti-drug plan.

These findings 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 \$25,000 per violation for each day of the violation up to a maximum of \$500,000 for any related series of violations. The Notice proposed a \$3,000 civil penalty for items 6 and 7 (\$2,000 for item 6 and \$1,000 for item 7).

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.

While Respondent has demonstrated good faith in its past efforts to achieve compliance, the cited violations are serious in nature. Improper welds can lead to gas leaks; inadequately written operations and maintenance plans, the lack of a damage prevention program, and an inadequate anti-drug plan may each lead to undue safety hazards. Therefore, Respondent's proposal to execute a consent order and waive or dismiss the civil penalty upon compliance will not be accepted. Respondent has the ability to pay the penalty, and there is no indication that the penalty would affect Respondent's ability to stay in business. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$3,000.

**Payment** of the civil penalty **must be made within 20 days of service.** Payment can 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-320), P.O. Box 25770, 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.**

After completing the wire transfer, send a copy of the **electronic funds transfer receipt** to the **Office of the Chief Counsel** (DCC-1), Research and Special Programs Administration, Room 8405, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590-0001.

**Questions** concerning wire transfers should be directed to:

**Valeria Dungee**, Federal Aviation Administration, Mike Monroney Aeronautical Center, Financial Operations Division (AMZ-320), P.O. Box 25770, Oklahoma City, OK 73125; **(405) 954-4719.**

Failure to pay the \$3,000 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 4 C.F.R. § 102.13 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 an United States District Court.

#### COMPLIANCE ORDER

The Notice proposed a compliance order for Item Nos. 1, 4, 6 and 7. Respondent has demonstrated corrective action addressing the items in the proposed compliance order. The Director, Southern Region, OPS has accepted these measures as adequately fulfilling the requirements of the regulations and no further action is needed with respect to a compliance order.

#### WARNING ITEMS

The Notice did not propose a civil penalty for Items 2, 3 and 5. These items were in the Notice to warn Respondent that it should take appropriate corrective action. However, should a violation come to the attention of OPS in a subsequent inspection,

enforcement action will be taken.

Under 49 C.F.R. § 190.215, Respondent has a right to 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. All other terms of the order, including any required corrective action, shall remain in full effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order are effective upon receipt.

Failure to comply with any aspect of this Final Order may result in the assessment of civil penalties of up to \$25,000 per violation per day, or in the referral of the case for judicial enforcement.

Richard B. Felder  
Associate Administrator for Pipeline Safety

Date Issued: August 1, 1997