



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

NOV 28 2005

Mr. Keith D. Osborn
Executive Vice President and Refinery General Manager
Coffeyville Resources Crude Transportation, LLC
P.O. Box 570
Coffeyville, KS 67337

Re: CPF No. 3-2003-5015

Dear Mr. Osborn:

Enclosed is the decision on the petition for reconsideration filed on your behalf by DLA Piper Rudnick Gray Cary in the above-referenced pipeline safety enforcement case. For the reasons discussed therein, the Associate Administrator for Pipeline Safety has denied your petition. Based on certain information provided in the petition, however, the Associate Administrator has decided to amend the March 4, 2005 Final Order to remove any reference to Coffeyville Resources Crude Transportation, LLC (CRCT) as a Respondent on the grounds that all actions required by the Order to comply with the pipeline safety regulations have been completed rendering the Order moot as to CRCT. Thus, the amendment to the Final Order provides equivalent relief to that sought in your petition. A copy of the amended Order is enclosed. Your receipt of the decision constitutes service under 49 C.F.R. § 190.5.

Sincerely,

James Reynolds
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosures

cc: Melissa Anne Hearne, Esq.
DLA Piper Rudnick Gray Cary US LLP
The Marbury Building
6225 Smith Avenue
Baltimore, MD 21209-3600

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)

Coffeyville Resources Crude)
Transportation LLC,)

Petitioner)
_____)

CPF No. 3-2003-5015

DECISION ON PETITION FOR RECONSIDERATION

Background

On March 4, 2005, pursuant to 49 U.S.C.S. § 60112 (2004), the Associate Administrator for Pipeline Safety issued a Final Order in this case finding that the written procedures for operations, maintenance and emergencies for Petitioner's pipeline facility did not comply with the applicable requirements in violation of 49 C.F.R. Part 195. The Final Order did not assess any monetary civil penalties for the violations, but it directed Petitioner to take certain actions to comply with the pipeline safety regulations.

On April 22, 2005, Petitioner filed a petition for reconsideration of the Final Order. In its petition, Petitioner stated that a change in company ownership had occurred before the Final Order was issued as the result of a bankruptcy proceeding. Petitioner contended that it was not liable for this regulatory enforcement proceeding because liability for such regulatory proceedings did not transfer from the bankrupt former owner under the particular Asset Purchase Agreement it had executed.

Discussion

We are not persuaded that the fact that an asset sale took place or that it took place in the context of bankruptcy is necessarily determinative of the question of liability. In its petition, Petitioner asserted that liability "did not transfer to [Petitioner] as part of the Asset Purchase Agreement."¹ Petitioner, however, did not provide any documentation, such as a copy of the relevant portion of the agreement itself, describing those liabilities that Petitioner did agree to assume in the sale. Thus, Petitioner failed to support its assertions about which liabilities were assumed and which were not assumed with any actual evidence. Moreover, Petitioner failed to demonstrate that

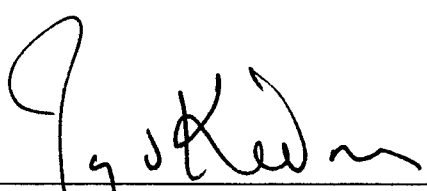
¹ Petition for Reconsideration (Petition) dated April 22, 2005 at page 2.

formal notice of the asset sale was afforded to OPS at the time. As a result, it appears that OPS was unable to avail itself of any rights it would have had as a party in interest.

In addition, we are not aware of any provision of the pipeline safety laws that would preclude the Office of Pipeline Safety (OPS) from pursuing an ongoing Compliance Order action against a successor where substantial continuity of the pipeline's operations was maintained throughout.² To the contrary, a situation where OPS was unable to pursue administrative enforcement actions against successor owners where the pipeline business operated continuously would directly conflict with the overall purpose of the pipeline safety laws and regulations to ensure that the nation's pipeline systems are operated safely.

The transportation of hazardous liquids by pipeline involves inherent risks to public safety and is therefore a heavily regulated industry. In the normal course, buyers of pipeline assets are expected to become aware of any open safety, environmental, and other regulatory proceedings involving the pipeline they are considering purchasing by conducting a due diligence investigation prior to the acquisition and are expected to carry out any pipeline safety-related obligations appropriately. In this case, company personnel were aware all along that OPS had made a preliminary determination that the written procedures for operations, maintenance, and emergencies for the subject pipeline were inadequate under the relevant regulations, and that OPS had opened an enforcement action and issued a Proposed Compliance Order as a result.³

Accordingly, the petition for reconsideration is denied. This decision on reconsideration is the final administration action in this proceeding.⁴

for 

Stacey Gerard
Associate Administrator
for Pipeline Safety

NOV 28 2005

Date Issued

² The pipeline safety laws are codified at 49 U.S.C. 60101 *et seq.* Section 60118(b) provides the U.S. Secretary of Transportation with broad authority to issue a Compliance Order. This authority in turn has been delegated to the Associate Administrator for Pipeline Safety.

³ For example, well after the ownership change, CRCT submitted materials responsive to this enforcement action prior to issuance of the Final Order and never raised any liability defense. See Letter from Sam A. McCormick, CRCT, to Hans Shieh, OPS, dated October 28, 2004, carbon copy to Keith Osborn.

⁴ In a separate document issued simultaneously with this decision, an amendment to the March 4, 2005 Final Order removed any reference to CRCT as a Respondent on the grounds that all actions required by the Order to comply with the pipeline safety regulations were completed rendering the Order moot and providing equivalent relief to that sought by Petitioner.