



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety Administration**

400 Seventh Street, S W
Washington, D C 20590

MAY 7 2007

Mr. Keith Osborn
Executive Vice President
Coffeyville Resources Crude Transportation, LLC.
P.O. Box 1566
Coffeyville, Kansas 67337

Re: CPF No. 3-2005-5027

Dr. Mr. Osborn:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$3,000. The penalty payment terms are set forth in the Final Order. 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: Ivan A. Huntoon
Director, Central Region, PHP-300

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

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

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In the Matter)

)
)
Coffeyville Resources)
Crude Transportation LLC.,)

CPF No. 3-2005-5027

)
Respondent)
_____)

FINAL ORDER

On April 4-7, 2005, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety conducted an on-site pipeline safety inspection of Respondent's facilities and records in Bartlesville, Oklahoma, Coffeyville, Kansas and Wichita, Kansas. As a result of the inspection, the Director, Central Region, PHMSA, issued to Respondent, by letter dated June 15, 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 had committed violations of 49 C.F.R. Part 195, and proposed assessing a civil penalty of \$3,000 for the alleged violations.

By letter dated July 20, 2005, Respondent requested an extension of the 30-day deadline to respond to the Notice. The Director, Central Region, PHMSA granted Respondent an extension until September 2, 2005. Respondent responded to the Notice by letter dated August 10, 2005 (Response). Respondent did not contest the alleged violations but submitted information regarding corrective actions it had taken and requested a reduction in the proposed penalty. Respondent did not request a hearing, and therefore has waived its right to one.

FINDINGS OF VIOLATION

In its Response, Respondent did not contest the alleged violations in the Notice. Accordingly, I find that Respondent violated the following sections of 49 C.F.R. Part 195, as more fully described in the Notice:

49 C.F.R. § 195.442(c)(2) (Notice Item 1) — failure to follow procedures for notifying the public and excavators of a damage prevention program. Respondent did not follow its written operating and maintenance procedures requiring that annual notifications be made; and

49 C.F.R. § 195.402(c)(12) (Notice Item 2) — failure to follow written procedures for establishing and maintaining liaison with emergency responders and public officials. Respondent did not have records to indicate that it had established liaison with fire, police, emergency, and other appropriate public officials in either Oklahoma or Kansas for 2003 or 2004.

These findings of violation will be considered prior offenses 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.

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.

With respect to Item 1, the Notice proposed a civil penalty of \$1,000 for Respondent's failure to follow written procedures regarding notification of its damage prevention program. Notifying excavators of the damage prevention program is important to minimize the potential for third party damage to the pipelines. We acknowledge that Respondent has initiated corrective measures to improve the notification system. Respondent, however, has presented no information that would warrant a reduction in the civil penalty amount proposed in the Notice for this violation. Accordingly, I assess Respondent a civil penalty of \$1,000 for violating 49 C.F.R. § 195.442(c)(2).

With respect to Item 2, the Notice proposed a civil penalty of \$2,000 for Respondent's failure to follow written procedures for establishing and maintaining liaison with emergency responders and public officials. Establishing and maintaining liaison with emergency responders and public officials is important because emergency responders would likely be required to act in response to any accidents involving the pipeline. We acknowledge that Respondent has begun implementing new procedures for establishing and maintaining contact with emergency responders and public officials. Respondent, however, has presented no information that would warrant a reduction in the civil penalty amount proposed in the Notice for this violation. Accordingly, I assess Respondent a civil penalty of \$2,000 for violating 49 C.F.R. 195.402(c)(12).

For the forgoing reasons, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$3,000. There is nothing in the record indicating that payment of this penalty would adversely affect Respondent's 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 \$3,000 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.

WARNING ITEMS

With respect to Items 3 and 4, the Notice alleged probable violations of Part 195 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:

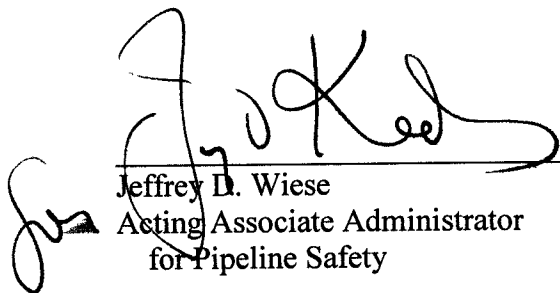
49 C.F.R. § 195.428(d) (Notice Item 3) — failure to document inspection or testing of overfill protection systems. Respondent did not have specific records documenting inspection or testing of the overfill protection systems for the Oklahoma and Kansas pipelines; and

49 C.F.R. § 195.440 (Notice Item 4) — failure to establish a continuing education program for government or local officials. Respondent did not have records to indicate that it was conducting continuing education for government or local officials along the Oklahoma and Kansas pipelines.

Respondent presented information in the response showing that it had taken action toward addressing the cited items. Having considered such information, I find that these items constitute probable violations under 49 C. F. R. § 190.205, and Respondent is hereby advised to correct such conditions. In the event that PHMSA finds a violation of said items in a subsequent inspection, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a petition for reconsideration of this Final Order. Should Respondent elect to do so, 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 a 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 are effective on receipt.



Jeffrey D. Wiese
Acting Associate Administrator
for Pipeline Safety

Date Issued