

DEPARTMENT OF TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, DC 20590

In the Matter of)
)
)

Conoco, Inc.)

CPF No. 5-2001-5004

Respondent)
_____)

FINAL ORDER

Between December 13-15, 2000, pursuant to Chapter 601 of 49 United States Code, a representative of the Office of Pipeline Safety (OPS) conducted an investigation of a tank overflow at Conoco's Yellowstone Pipeline Company's Helena Terminal in the Helena, Montana area. As a result of the inspection, the Director, Western Region, OPS, issued to Respondent, by letter dated July 19, 2001, 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 a violation of 49 C.F.R. Part 195 and proposed assessing a civil penalty of \$25,000 for the alleged violation.

FINDING OF VIOLATION

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

49 C.F.R. §195.402(a) – failure to follow procedures by not actually switching the product flow from Tank #32 to Tank #35 as the records indicated.

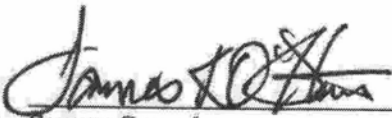
This finding of violation will be considered as a prior offense in any subsequent enforcement action taken against Respondent.

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.

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.

Accordingly, having reviewed the record and considered the assessment criteria, I assessed a civil penalty of \$25,000, already paid by Respondent. The terms and conditions of this Final Order are effective upon receipt.


Stacey Gerard
Associate Administrator
for Pipeline Safety

MAR - 5 2002

Date Issued