Mr. Ronald L. Adams
Vice President Pipe Line Operations
Transcontinental Gas Pipe Line Corporation
P.O. Box 1396
Houston, Texas 77251

Re: CPF No. 43102

Dear Mr. Adams:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It withdraws one of the allegations of violation, makes findings of violation and assesses a civil penalty of $20,000. In addition, it also withdraws the proposed compliance order. The penalty payment terms are set forth in the Final Order. 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, DC 20590

In the Matter of	)	
Transcontinental Gas Pipe Line Corporation,	)	CPF No. 43102
Respondent.	)	

FINAL ORDER

Pursuant to 49 U.S.C. § 60117, a representative of the Office of Pipeline Safety (OPS) conducted an investigation of the December 11, 1992 incident involving Respondent's pipeline in Tilden, Texas. As a result of the investigation, the Director, Southwest Region, OPS, issued to Respondent, by letter dated February 12, 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 violated 49 C.F.R. §§ 192.605(c), 192.751(a) and 192.751(c), and proposed assessing civil penalties in the amount of $30,000 for the alleged violations ($10,000 for each of the alleged violations). The Notice also proposed that Respondent take certain measures to correct the alleged violations.

Respondent responded to the Notice by letter dated March 15, 1993 (Response). Respondent contested the allegations, offered information in explanation of the allegations in mitigation of the proposed penalty, and requested a hearing that was held on September 9, 1993.

FINDINGS OF VIOLATION

The Notice alleged that Respondent was in violation of 49 C.F.R. § 192.751(a) for failing to remove a potential source of ignition from the area where a hazardous amount of gas was being vented into open air. Respondent was performing a liquid recovery

operation on its 20-inch South McMullen lateral which involved the venting of substantial amounts of gas into the air. During this operation, at least one other employee was cooking with a lit burner in a nearby trailer approximately 66 feet away.

At the hearing, Respondent stated that it did remove potential sources of ignition from the area where gas was being vented. Respondent stated that it used the American Petroleum Institute's (API) publication 500C (Second Edition; July 1984), as the standard for determining the distance that venting gas needs to be from an ignition source. This industry standard incorporates definitions from National Fire Protection Association's National Electric Code (ANSI/NFPA)70, a document also relied on in the Response. API's industry standard provides guidance for classifying locations at petroleum facilities for the selection and installation of electrical equipment, such as electrical outlets. It discusses, inter alia, the minimum recommended distances between any gas being handled and the location of electrical installations. There is nothing in the record that shows that it would be relevant in this instance.

The pipeline safety regulations do not prescribe minimum distances in this performance-based regulation. According to the inspector, the ignition source, a lit liquid propane burner located in a trailer used to house the employees performing the liquid recovery operation, was located approximately 66 feet from the area where the liquid recovery operation was taking place. Accident Report at Attachment 2. In addition, the winds at the time of the accident were relatively "calm." Accident Report at page 6. "Steady and blowing" winds reported earlier that day probably helped dissipate the heavier than air vapors in a direction away from the recovery operation. Furthermore, no testing was performed to determine the presence or absence of a combustible vapor-air mixture. Finally, and most important, an actual ignition occurred, causing secondary fires, and injuring 3 people. It is clear that Respondent failed to remove a potential source of ignition from an area where a hazardous amount of gas was being vented into open air. In addition, these factors, taken together, demonstrate that Respondent did not take reasonable steps to do so. Accordingly, I find that Respondent was in violation of 49 C.F.R. § 192.751(a).

The Notice also alleged that Respondent was in violation of 49 C.F.R. § 192.751(c) for failing to post warning signs where the presence of gas constitutes a hazard of fire or explosion, where appropriate.

At the hearing, Respondent asserted that no warning signs were needed given the isolated, rural location of the incident. While Respondent's facilities may be in a rural, isolated area, there were other persons working at the plant located approximately 300 feet from the accident who had access to the worksite. Accident Report at page 3. Furthermore, the liquid recovery operation was temporary in duration. Persons working near the site, therefore, were facing a previously non-existent risk. The regulation does not only require a warning to members of the general public, but it also refers to the warning that must be in place to caution all people, including persons working at the site, who are in an area where there is a threat of a fire or explosion. Accordingly, I find that Respondent was in violation of 49 C.F.R. § 192.751(c).

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

WITHDRAWAL OF ALLEGATION

The Notice alleged that Respondent was in violation of 49 C.F.R. § 192.605(c) for failing to include procedures in its operations and maintenance plan to cover situations where extraordinary maintenance activities were being performed on facilities presenting the "greatest" hazard to public safety. According to the Notice, Respondent performed pigging-liquid recovery operations on its 20-inch South McMullen lateral using temporary facilities involving the release of heavier than air condensate vapors into the atmosphere without these procedures. According to the Accident Report, the pipeline contained unacceptable amounts of gas condensates and other liquids, the removal of which was necessary for maximizing the performance of the pipeline.

In its response, Respondent stated that it had procedures to handle the "greatest" hazards to public safety to its facilities. Respondent stated that the subject facilities in this particular case were "not among those on Transco's system presenting the greatest hazard to public safety, particularly since the facilities were located in an isolated, rural location, far removed from the general public." Response at 1.

While the regulation requires pipeline operators to have specific programs to handle emergency and extraordinary maintenance activities presenting the "greatest" hazard to public safety, it does not provide further information to define what the word "greatest" hazard to public safety could be. While I have no doubt that the pigging-liquid recovery operation performed by Respondent is hazardous, the language used in the regulation is not sufficiently clear to be the basis for a finding of violation in this case. In fact, 49 C.F.R. § 192.605 was substantially revised in a rule change that took effect on February 11, 1995 (59 FR 6579; February 11, 1994). The rule now in effect requires more detailed procedures than those required by the predecessor rule. In the Notice of Proposed rulemaking to that rule, the Office of Pipeline Safety stated that it believed that the rule was "not sufficiently detailed to assure that operators take timely and appropriate actions under normal conditions or in responding to abnormal situations." (54 FR 46685; November 6, 1989). I am withdrawing the allegation of violation of 49 C.F.R. § 192.605(c) based on the vagueness of the regulation in effect at the time of the inspection. In addition, the proposed compliance order is withdrawn. Notwithstanding the withdrawal of the proposed compliance order, I strongly encourage Respondent to implement procedures relating to the requirements of 49 C.F.R. § 192.605 in accordance with the revised rule.

ASSESSMENT OF PENALTY

At the time the Notice was issued, under 49 U.S.C § 60122, Respondent was subject to a civil penalty not to exceed $10,000 per violation for each day of the violation up to a maximum of $500,000 for any related series of violations.

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.

Failing to take adequate precautions to ensure that ignition sources are removed from areas where a hazardous amounts of gas are being vented into the air can lead to a fire or explosion.

Failing to post warning signs to minimize the danger of accidental ignition of gas in an area where gas poses a hazard of fire or explosion places undue risks on people in the area.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of $20,000.

Payment of the civil penalty **must be made within 20 days of service**. Federal regulations (49 C.F.R. § 89.21(b)(3)) require this **payment 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 $20,000 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.

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.

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Richard B. Felder
Associate Administrator
for Pipeline Safety

Date Issued: 05/27/1997