

Mr. William P. Vititoe
President, ANR Pipeline Company
One Woodward Avenue
Detroit, MI 48226

Re: CPF No. 43105

Dear Mr. Vititoe:

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 \$6,000. 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)
)
ANR Pipeline Company,)
) CPF No. 43105
Respondent.)
_____)

FINAL ORDER

On February 24-26, 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 Eunice, Louisiana. As a result of the inspection, the Director, Southwest Region, OPS, issued to Respondent, by letter dated March 9, 1993, 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 violated 49 C.F.R. § 192.731(a), and proposed assessing a civil penalty of \$8,000 for the alleged violation.

Respondent responded to the Notice by letter dated April 13, 1993 (Response). Respondent contested the allegation, offered information to explain the allegation and requested mitigation of the proposed civil penalty. Respondent has not requested a hearing and therefore, has waived its right to one.

FINDINGS OF VIOLATION

The Notice alleged that Respondent was in violation of 49 C.F.R. § 192.731(a) for failing to inspect and test 16 relief devices at its Eunice, Louisiana compressor station in 1992, in accordance with 49 C.F.R. § 102.739. The regulation requires pipeline operators to inspect and test pressure relief devices in compressor stations at least once each calendar year.

In its Response, Respondent asserted that 4 of the 16 valves were not pressure relieving devices as characterized in the Notice, but were remotely controlled low pressure shut-in devices not subject to 49 C.F.R. § 192.731(a). OPS agrees that 4 of the valves were low pressure shut-in devices. While remotely controlled shutdown devices are subject to 49 C.F.R. 192.731(c), and must be inspected and tested at least once each calendar year, the Notice did not allege violation of this regulation. Respondent has not been given notice of this modified allegation through a Supplemental Notice. Therefore, I am withdrawing the allegation of violation with respect to the 4 remotely controlled low pressure shut-in devices.

With respect to the other 12 relief devices, Respondent did not contest the allegation that it failed to inspect and test the relief devices during the 1992 calendar year. I therefore find that Respondent was in violation of 49 C.F.R. § 192.731(a) for failing to inspect the 12 relief devices in 1992.

This finding 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.

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.

The proposed civil penalty of \$8,000 is reduced to \$6,000 because of the withdrawal of the alleged violation with respect to 4 of the 16 valves.

The remaining relief valves provide significant protection from overpressure of station equipment and the pipeline to which it is attached. Failing to inspect such valves could result in defects going unnoticed until a valve(s) fails when needed.

Respondent contends that the \$500 civil penalty assessed per each relief valve in violation of the regulation is "unduly harsh." I disagree. Because OPS previously issued a warning letter to Respondent dated June 24, 1990, concerning inspection of overpressure relief devices, Respondent was aware that OPS reviews relief device records.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$6,000.

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 \$6,000 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). In

accordance with 49 C.F.R. § 190.215(d), filing the petition does not stay the effectiveness of this Final Order. However, in the petition Respondent may request, with explanation, that the Final Order be stayed. The terms and conditions of this Final Order are effective upon receipt.

Richard B. Felder
Associate Administrator for
Pipeline Safety

Date Issued: 3/25/1997