

DEPARTMENT of TRANSPORTATION  
RESEARCH and SPECIAL PROGRAMS ADMINISTRATION  
OFFICE of PIPELINE SAFETY  
WASHINGTON, DC 20590

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In the Matter of ) )  
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Western Gas Interstate Company,) CPF No. 45105  
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Respondent. ) )  
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FINAL ORDER

On May 16-19, 1995 and June 15-16, 1995, pursuant to 49 U.S.C. § 60117, a representative of the Office of Pipeline Safety (OPS) conducted on-site pipeline safety inspections of Respondent's facilities and records in Guymon, Oklahoma and Austin, Texas. As a result of these inspections, the Director, Southwest Region, OPS, issued to Respondent, by letter dated December 1, 1995, 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. §§ 192.13(c), 192.465(d) and 192.707, and proposed assessing a civil penalty of \$5,000, for one of the alleged violations. The Notice also proposed, in accordance with 49 C.F.R. § 190.217, that Respondent take certain measures to correct the alleged violations.

Respondent responded to the Notice by letter dated January 24, 1996 (Response). Respondent did not contest the Notice, but offered information to explain one of the allegations and requested mitigation of the proposed civil penalty. Respondent also agreed to the terms and conditions of the proposed compliance order. Respondent has not requested a hearing and therefore, has waived its right to one.

FINDINGS OF VIOLATION

Item 1 in the Notice alleged that Respondent failed to follow its written procedures concerning pipeline system review, location liaison, odorant level testing, casings and atmospheric corrosion. Section 49 C.F.R. § 192.13© requires that each pipeline operator prepare, maintain and follow a manual of written procedures for conducting normal operations, maintenance activities and handling abnormal operations and emergencies.

Respondent did not contest this alleged violation. Accordingly, I find that Respondent did not follow its written procedures as required by the pipeline safety regulations and therefore violated 49 C.F.R. § 192.13(c).

Item 2 in the Notice alleged that Respondent had violated 49 C.F.R. § 195.465(d), which requires that whenever an operator's cathodic protection monitoring indicates a deficiency, the operator will take prompt remedial action to correct the deficiency. The Notice alleged that Respondent's cathodic protection surveys showed inadequate cathodic protection levels at several pipeline locations and Respondent did not take prompt remedial actions to correct these deficiencies.

In its Response, Respondent stated it did take remedial action within a reasonable period of time and submitted information documenting its actions. A review of this information shows that during a three year period Respondent undertook a series of maintenance actions to correct the inadequate cathodic protection levels. Respondent stated that, it had spent a "considerable amount of money" to upgrade its cathodic protection system. Respondent explained that it had hired a cathodic protection consultant and replaced five ground beds to improve its cathodic protection system.

Between 1993 and 1995, Respondent was aware of low readings for its cathodic protection surveys on its pipeline system. The pipeline safety regulations require that, unless an operator can cite circumstances which prevented it from correcting existing cathodic protection deficiencies, an operator must take prompt remedial action to correct the

cathodic protection deficiencies. A review of Respondent's cathodic protection survey records indicates that there were several locations that

had deficient readings for three inspection cycles (approximately 3 years). Respondent has not shown any circumstance that would have prevented it from taking prompt remedial action and correcting these deficiencies.

I have reviewed the record including Respondent's response and, accordingly, I find that Respondent did not take prompt remedial actions that corrected the known cathodic protection deficiencies and therefore violated 49 C.F.R. § 195.465(d).

Item 3 in the Notice alleged that Respondent failed to maintain its pipeline markers in accordance with 49 C.F.R. § 192.707. This provision requires line markers at certain locations and that the line markers contain certain information. The OPS inspection found that line markers were missing from certain required locations and that a number of Respondent's line markers did not contain all the required information. In addition, several of Respondent's line markers did not have Respondent's name and telephone number, as required by 49 C.F.R. § 192.707(d)(2).

Respondent did not contest this alleged violation. Accordingly, I find that Respondent did not install and maintain pipeline markers as required by the pipeline safety regulations and therefore violated 49 C.F.R. § 192.707.

These findings of violation will be considered as 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 \$25,000 per violation for each day of the violation up to a maximum of \$500,000 for any related series of violations. The Notice proposed a total penalty of \$5,000 for Item 2.

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 violations, 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.

Corrosion is a serious problem throughout the pipeline industry. In order to address this problem, the pipeline safety regulations require pipeline operators monitor and maintain effective cathodic protection. The failure to maintain an adequate cathodic protection system can jeopardize a pipeline's integrity. Respondent, as indicated in its Response, took several remedial steps to correct the cathodic protection deficiencies. Respondent requested that its previously described remedial efforts be considered in mitigation of the proposed civil penalty. I consider these efforts to be a mitigating factor. Accordingly, having reviewed the record and considered the assessment criteria including Respondent's corrective actions, I assess Respondent a civil penalty of \$2,500.

I find that Respondent has the ability to pay the assessed civil penalty and the penalty will not affect Respondent's ability to continue in business.

**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 8407, 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 \$2,500 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.

#### PROPOSED COMPLIANCE ORDER

The Notice proposed requiring Respondent to take certain corrective actions to achieve compliance with the pipeline safety regulations. In its Response, Respondent did not contest the proposed compliance order. In addition, Respondent submitted documentation of the corrective actions it had taken in order to comply with the terms and conditions of the proposed compliance order. The Director, Southwest Region, OPS has reviewed Respondent's remedial actions and accepts these measures as adequately fulfilling the requirements of the pipeline safety regulations. Accordingly, no need exists to issue an compliance order and no further action is needed with respect to the proposed compliance order.

#### WARNING ITEM

Item 4 of the Notice warned Respondent that the capacity of its pressure relief devices were not sufficient to protect its pipeline system against over pressurization. Respondent has presented information that shows that it has addressed the cited item. However, should a violation come to the attention of OPS in a subsequent inspection, enforcement action will be taken.

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: \_\_\_\_\_