

Mr. Robert S. Lane
Division Manager
Texaco Exploration and Production, Inc.
4601 DTC Boulevard
Denver, Colorado 80237

Re: CPF No. 52010

Dear Mr. Lane:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It withdraws several of the allegations of violation, makes findings of violation and assesses a civil penalty of \$ 12,000. 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
WASHINGTON, DC

_____)	
In the Matter of)	
)	
Texaco Exploration and Production, Inc.)	CPF No. 52010
)	
Respondent.)	
_____)	

FINAL ORDER

On April 21, 1992, 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 Taft, California (Cross Valley Pipeline System). As a result of the inspection, the Director, Western Region, OPS, issued to Respondent, by letter dated May 14, 1992, 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), 192.225(a), 192.465(b), 192.491(b)(2), 192.603(b), 192.605, 192.614, 192.615(a) and 192.707(d)(1) and proposed a civil penalty of \$ 32,000 for the alleged violations. The Notice also proposed that Respondent take certain measures to correct the alleged violations.

Respondent responded to the Notice by letters dated June 15 and August 17, 1992 (Response). Respondent contested several of the allegations, offered information to support its position and to mitigate the proposed civil penalty, and requested a hearing that was held in the Western Region, OPS on October 15, 1992.

FINDINGS OF VIOLATION

Item 1 in the Notice alleged that Respondent had violated 49 C.F.R. § 192.13(c) because its Operating and Maintenance (O&M) Manual simply repeated the pipeline safety regulations rather than described the methods and procedures necessary to meet the regulatory requirements. Section 192.13(c) requires a pipeline operator to maintain, and modify as appropriate, the procedures and programs it will use to satisfy the requirements of part 192.

Respondent did not contest this allegation and agreed to modify its procedures. Accordingly, I find that Respondent was in violation of 49 C.F.R. § 192.13(c).

Item 2 alleged that Respondent's welding procedures did not comply with 49 C.F.R. § 192.225, which requires that welding be performed by a qualified welder in accordance with qualified welding procedures, that the quality of the test welds used to qualify the procedures be determined by destructive testing, and that each welding procedure be recorded in detail.

Respondent denied this allegation. Respondent maintained that it uses welders that have certifications showing that the welder passed API 1104's destructive techniques to test the welds, and that it x-rays field welds to meet the requirements of ANSI B 1.3. Respondent further submitted copies of the certifications and of field weld inspection reports. No evidence was presented to counter Respondent's assertion and documentation. Accordingly, the allegation of violation is withdrawn.

Item 3 alleged that Respondent violated 49 C.F.R. § 192.465(b), which requires that an operator inspect each cathodic protection rectifier or other impressed current source six times each calendar year, but with intervals not exceeding 2 1/2 months, to ensure that it is operating. The Notice alleged that Respondent exceeded the 2 1/2 month interval when it failed to inspect its Cymric rectifier between May 24, 1990 and October 8, 1990 and its Brown Material Road rectifier between March 14, 1990 and September 21, 1990.

Respondent maintained that it had performed the required monitoring of these rectifiers in the summer of 1990, but acknowledged that it did not have documentation of the summer inspection. Respondent further explained that a change in personnel may have contributed to the missing records. Accordingly, I find that Respondent violated 49 C.F.R. § 192.465(b) by not having documentation that it had inspected the cited rectifiers within the required intervals during the summer of 1990.

Item 4 alleged that Respondent had violated 49 C.F.R. § 192.491(c) (former § 192.491(b)(2)) because it could not provide records indicating that it examined buried pipe when exposed, and monitored its pipeline system for internal corrosion and atmospheric corrosion. Section 192.491(c) requires an operator to maintain records of each test, survey, or inspection required by part 192 to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist.

Respondent provided records demonstrating that it monitored for internal corrosion; therefore, this allegation of violation will be withdrawn. Respondent stated that it had visually inspected

exposed buried pipe for signs of external damage, but had not recorded the nonexistence of a problem. Respondent further said that it had inspected its pipeline monthly for atmospheric corrosion but, again, had not recorded the nonexistence of a problem. Respondent said that it would revise its procedures to ensure this information is recorded.

Accordingly, I find that Respondent violated 49 C.F.R. § 192.491(c) by not having records demonstrating that it had been monitoring its pipeline system for atmospheric corrosion and examining buried pipe when exposed.

Item 5 in the Notice alleged that Respondent violated 49 C.F.R. § 192.603(b), which requires that an operator establish a written O&M plan meeting the requirements of Part 192 and keep records necessary to administer the plan. The Notice alleged that Respondent did not have written procedures that addressed prompt remedial action to correct any deficiency discovered during monitoring, electrical isolation of buried or submerged pipelines and odorization of gas. Respondent did not contest this allegation and agreed to modify its procedures. Accordingly, I find that Respondent violated 49 C.F.R. § 192.603(b).

Item 6 alleged that Respondent violated 49 C.F.R. § 192.605(d) (former § 192.605(f)) because its O&M manual did not include instructions enabling personnel who perform O&M activities to recognize conditions that potentially may be safety-related conditions subject to the pipeline safety reporting requirements. Respondent did not contest this allegation and agreed to modify its procedures. Accordingly, I find that Respondent violated 49 C.F.R. § 192.605(d).

Item 7 in the Notice alleged that Respondent did not have a written damage prevention program that satisfied the requirements of 49 C.F.R. § 192.614. Respondent did not contest this allegation and agreed to include the necessary procedures. Accordingly, I find that Respondent violated 49 C.F.R. § 192.614.

Item 8 alleged that Respondent did not have written procedures that addressed how to minimize the hazard resulting from a gas pipeline emergency, in violation of 49 C.F.R. § 192.615. Respondent did not contest this allegation and agreed to include the required emergency plan procedures. Accordingly, I find that Respondent violated 49 C.F.R. § 192.615.

Item 9 alleged that Respondent was in violation of 49 C.F.R. § 192.707(d)(1), which requires that the warning language on warning markers be in letters at least one inch high with one-quarter inch stroke. Respondent explained that its warning markers in the field complied with the regulation but that during the inspection it had given the inspector a new sticker that was going to replace the existing markers. These stickers had the incorrect letter size. Based on this explanation, the OPS Region has agreed to withdraw this allegation of violation.

However, the Region has noted that Respondent's warning markers did not contain the correct company name and telephone number, which would have been a violation of 49 C.F.R. §192.707(d)(2). Respondent is warned that it must ensure the information on the markers is accurate.

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

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. The Notice proposed a total civil penalty of \$32,000 for violation items 2, 3, 4 and 9 (49 C.F.R. §§ 192.225, 192.465(b), 192.491(c) and 192.707(d)(1)).

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.

As previously discussed, the allegations concerning Items 2 and 9 (49 C.F.R. §§ 192.225 and 192.739) are withdrawn and no penalties will be assessed. Additionally, no penalty will be assessed for one of the allegations concerning Item 4 (49 C.F.R. 192.491(c)) that was withdrawn.

Both of the remaining violations concerned Respondent's not having certain records. In the first violation, Respondent could not document that it had inspected two of its cathodic protection rectifiers within the required intervals. Respondent maintained that a civil penalty was not warranted because it had performed the inspections, but that a change in personnel had likely contributed to its not being able to find the records. Respondent also said that readings taken from the prior and subsequent inspections showed that the rectifiers were operating properly.

The other violation concerned Respondent's not having certain corrosion control records (examining exposed buried pipe and monitoring for atmospheric corrosion). Again, Respondent argued that since it had performed the inspections, but simply not kept the required records, a civil penalty should not be assessed.

I recognize that Respondent's overall recordkeeping was sound and that the lack of the cited records was not indicative of how Respondent maintained its pipeline safety recordkeeping system. Nonetheless, without the required documentation, it is difficult for an operator to ensure that it has inspected the rectifiers within the specified intervals. More importantly, documentation is essential not only to show that the inspections were conducted but to show that the cathodic protection system is working. Without this history, an operator will have difficulty in determining areas where there are problems that need to be addressed.

Similarly, without the required documentation, an operator cannot adequately verify that its corrosion control measures are adequate and that a corrosive condition does not exist on the pipeline. Not having records increases the likelihood that developing corrosion may go untreated.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$12,000.

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 8407, U.S. Department of Transportation, 400 Seventh Street, SW, 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 \$12,000 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.

COMPLIANCE ORDER

The Notice proposed a compliance order. Respondent has demonstrated corrective action addressing the items in the proposed compliance order. The Director, Western Region, OPS has accepted these measures as adequately fulfilling the requirements of the regulations and no further action is needed with respect to a compliance order.

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.

Richard B. Felder
Associate Administrator for
Pipeline Safety

03/25/1997
Date Issued