

Mr. Rene Ramirez
City Manager
City of Coalinga
155 W. Durian Avenue
Coalinga, CA 93210

Re: CPF 54017

Dear Mr. Ramirez:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$12,700, requires certain corrective action, and requires the revision of your operations and maintenance plan and your anti-drug plan. 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

REGISTERED MAIL - RETURN RECEIPT REQUESTED

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

_____))
In the Matter of))
))
the City of Coalinga,) CPF 54017
))
Respondent.))
_____)

FINAL ORDER

During the week of August 8, 1994, 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 pipeline facilities and records in Coalinga, CA. As a result of the inspection, the Director, Western Region, OPS, issued to Respondent, by letter dated October 12, 1994, a Notice of Probable Violation, Proposed Civil Penalty, Proposed Compliance Order, and Notice of Amendment (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had violated 49 C.F.R. §§ 192.453, 192.465(a) and (d), 192.469, 192.479(a) and (b), 192.603(b), 192.615(a) S (d), 192.707(a), 192.727(d), and 192.747, proposed assessing a civil penalty of \$25,700 for the alleged violations, and proposed that Respondent take certain corrective action. The Notice also proposed, in accordance with 49 C.F.R. § 190.237, that Respondent amend certain procedures in its anti-drug plan.

Respondent responded to the Notice by letter dated November 1, 1994 (Response). Respondent contested some of the allegations of violation, offered information to explain other allegations, and sought mitigation of the proposed civil penalty. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

I find, as explained below, that Respondent violated the following sections of 49 C.F.R. Part 192.

Cathodic Protection

(Items 1(b) - 4)

Item 1(b) in the Notice alleged that Respondent violated 49 C.F.R. § 192.453. This section requires that an operator establish procedures to implement the corrosion control requirements of Subpart I.¹ The Notice alleged that Respondent did not have procedures indicating that prompt remedial action must be taken following detection of deficiencies in its cathodic protection, as required by 49 C.F.R. § 192.465(d). Respondent did not contest this alleged violation.

Item 2 alleged that Respondent violated 49 C.F.R. § 192.465(a). The section provides that any pipeline that is cathodically protected must be tested at least once each calendar year, not exceeding 15 months. The Notice alleged that Respondent had not inspected the mains and distribution lines in its pipeline system since the pipeline's installation in 1983. In its Response, Respondent denied that it violated 49 C.F.R. § 192.465(a). It wrote: "[T]here must have been a misunderstanding . . . because the City conducts a cathodic protection survey on an annual basis and has on file in the Administration Office records documenting such [information] dating back to 1976." Although Respondent stated that it would provide "OPS documentation of past cathodic survey reports" (Response, p. 2), OPS has no record that it ever received copies of these annual reports.

Item 3 alleged that Respondent violated 49 C.F.R. § 192.465(d). The section requires each operator to take prompt remedial action to correct any deficiency that is detected by pipe-to-soil (P/S) monitoring. The Notice alleged that Respondent could not demonstrate that it had taken action to remedy the low P/S readings found in 1992 at the following test sites:

<u>Sheet</u>	<u>Block</u>	<u>Lot</u>	<u>Meter</u>	<u>P/S (volts)</u>
71-15	154	12	3683	S.294
71-25	251	2	6715	S.607
71-25	252	2	5947	S.496
72-08	81	22	5937	S.415
72-11	112	2	4688	S.215
72-19	192	12	5037	S.321
83-15	153	2	7485	refused entry

Respondent acknowledged in its Response that it "could not demonstrate any remedial action to remedy the low pipe-to-soil readings." However, Respondent emphasized that "[s]ince that time, the City has been proactive." (Response, p. 2).

¹ The current language in § 192.453 differs from the language contained in the regulation at the time the Notice was originally issued; however, the change in language did not alter the meaning of the regulation.

Item 4 alleged that Respondent violated 49 C.F.R. § 192.469. The section provides that each pipeline under cathodic protection must have sufficient test stations or other contact points to facilitate electrical measurement to determine the adequacy of cathodic protection. The Notice alleged that Respondent did not have test stations assigned on the mains and distribution lines of its pipeline system.

Respondent acknowledged in its Response that it “could not designate compliance with this section of the regulations.” It noted, however, that several test sites which were previously excluded would now be included in its annual cathodic protection survey. (Response, p. 2).

Atmospheric Corrosion

(Items 5, 6)

Item 5 alleged that Respondent violated 49 C.F.R. § 192.479(a). The section provides that each aboveground pipeline or portion of a pipeline installed after July 31, 1971 that is exposed to the atmosphere must be cleaned and either coated or jacketed with a material suitable for the prevention of atmospheric corrosion. The Notice alleged that atmospheric corrosion was observed on approximately ten percent (10%) of Respondent’s customer meters. Respondent did not contest this alleged violation.

Item 6 alleged that Respondent violated 49 C.F.R. § 192.479(b). The section provides that each operator that has an aboveground pipeline or portion of a pipeline installed after July 31, 1971 must take remedial action, including either coating or jacketing the corroded area(s), if corrosion is found. The Notice alleged that approximately ten percent (10%) of Respondent’s customer meters exhibited signs of atmospheric corrosion. Respondent did not contest this alleged violation.

Operations and Maintenance

(Items 9, 10, 11, 12, 13, 14, 15)

Item 9 alleged that Respondent violated 49 C.F.R. § 192.615(a) because its written emergency plan did not contain all the specified procedures. The section provides that each operator must establish written procedures to minimize the hazard resulting from a gas pipeline emergency. Respondent did not contest this alleged violation.

Item 10 alleged that Respondent violated 49 C.F.R. § 192.615(b). The section requires that an operator establish procedures to: (1) Furnish its supervisors with a copy of the latest edition of emergency procedures; (2) Train the appropriate operating personnel about emergency procedures; and (3) Review employees’ activities to determine whether procedures were effectively followed in each emergency. The Notice alleged that Respondent could not demonstrate compliance with these requirements. Respondent did not contest this alleged violation.

Item 11 alleged that Respondent violated 49 C.F.R. § 192.615(c) which requires an operator to establish and maintain liaison with appropriate fire, police, and other public officials. The Notice alleged that Respondent could not demonstrate compliance with this requirement. Respondent did not contest this alleged violation.

Item 12 alleged that Respondent violated 49 C.F.R. § 192.615(d).² The section provides that each operator must establish a continuing educational program to enable customers, the public, government organizations, and persons engaged in excavation related activities to recognize a gas pipeline emergency so that appropriate reporting takes place in the event of an emergency. The Notice alleged that Respondent could not demonstrate compliance with this requirement. Respondent did not contest this alleged violation.

Item 13 alleged that Respondent violated 49 C.F.R. § 192.707(a). The section provides that line markers must be placed and maintained as close as practical over each buried main and transmission line:

- (1) At each crossing of a public road and railroad; and
- (2) Wherever necessary to identify the location of the transmission line or main to reduce the possibility of damage or interference.

The Notice alleged that Respondent did not have adequate markers locating its mains from the north and south city gate valves to the start of its distribution system. Respondent did not contest this alleged violation.

Item 14 alleged that Respondent violated 49 C.F.R. § 192.727(d) which provides the requirements that an operator must follow whenever service to a customer is discontinued. The Notice alleged that several of Respondent's customer meters that were out of service did not meet the specified requirements. Respondent did not contest this alleged violation.

Item 15 alleged that Respondent violated 49 C.F.R. § 192.727(d). The section provides that each valve that may be necessary for the safe operation of a distribution system must be checked and serviced at least once each calendar year, not exceeding 15 months. The Notice alleged that Respondent could not demonstrate that it had complied with the inspection requirements for three of its valves. Specifically, these three valves had been covered over with black top, making them inaccessible for inspection or for the safe operation of the line.

² This regulation is now located at 49 C.F.R. § 192.616.

Respondent subsequently submitted information showing that one of the valves had been abandoned, although the change had not yet been noted on Respondent's maps. Consequently, the violation is established at two, rather than three, locations.³

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

WITHDRAWAL OF ALLEGATIONS

Item 8(f) alleged that Respondent violated 49 C.F.R. § 192.603(b) by failing to keep the records necessary to administer its written operating and maintenance plan — specifically, records indicating compliance with the requirements of 49 C.F.R. §§ 192.739 and 192.743. Section 192.739 provides that each pressure limiting station, relief device, and pressure regulating station and its equipment must be inspected and tested at least once each calendar year, not exceeding 15 months, to determine that the requirements of the regulation are met. Section 192.743 provides that pressure relief devices must be either tested, or, if testing is not feasible, the required capacity at each station must be reviewed, calculated, and assessed at least once each calendar year, not exceeding 15 months. If the relieving device is of insufficient capacity, a new or additional device must be installed. Respondent subsequently submitted records demonstrating that it complied with 49 C.F.R. §§ 192.739 and 192.743. This allegation is therefore withdrawn.

Item 8(g) alleged that Respondent violated 49 C.F.R. § 192.603(b) by failing to keep the records necessary to administer its written operating and maintenance plan, specifically, records indicating compliance with the requirements of 49 C.F.R. § 192.747. Section 192.747 provides that each valve that may be necessary for the safe operation of a distribution system must be checked and serviced at least once each calendar year, not exceeding 15 months. Respondent subsequently submitted records demonstrating that it complied with 49 C.F.R. § 192.747. This allegation is therefore withdrawn.

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.

³ The Notice incorrectly identified the two covered valves as 7B1 and 7B2. The correct numbers are 6B5 and 6B6. Valve 4E1 was abandoned at the time of the inspection, but maps did not show the change.

49 U.S.C. § 60122 and 49 U.S.C. § 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 Notice proposed assessing a civil penalty of \$ 25,700. The following civil penalties have been established.

<u>Item No.</u>	<u>Violation</u>	<u>Proposed Penalty</u>	<u>Assessed Penalty</u>
2.	§ 192.465(a)	\$ 11,000	\$ 11,000
3.	§ 192.465(d)	\$ 700	\$ 700
4.	§ 192.469	\$ 9,000	\$ 0
8(f).	§ 192.603(b)	\$ 1,000	\$ 0
8(g).	§ 192.603(b)	\$ 2,500	\$ 0
15.	§ 192.747	\$ 1,500	\$ 1,000

Item 2 (§ 192.465(a)) proposed assessing a civil penalty of \$ 11,000 for Respondent's failure to inspect its mains and distribution lines in its pipeline system from 1983 to 1994. Adequate cathodic protection is critical to the safe operation of the pipeline. Inadequate cathodic protection can result in corrosion, which is a major cause of pipeline failure. Respondent did not present any mitigating information; therefore, the penalty for this violation will remain as proposed.

Item 3 (§ 192.465(d)) proposed assessing a civil penalty of \$ 700 for Respondent's failure to demonstrate that it had taken prompt remedial action to remedy low pipe-to-soil readings at seven test sites. Respondent acknowledged that it had not acted promptly to remedy the low readings. Therefore, the penalty for this violation will remain as proposed.

Item 4 (§ 192.469) proposed assessing a civil penalty of \$ 9,000 for Respondent's failure to have sufficient test stations on its system. I have decided not to assess a civil penalty for this violation. Instead, Respondent should apply the proposed amount toward corrective action, including installing the test stations.

Items 8(f) and (g) proposed assessing civil penalties of \$ 1,000 and 2,500, respectively, for the alleged violation of § 192.603(b). Because I have withdrawn these allegations based on information submitted by Respondent, no civil penalty will be assessed.

Item 15 (§ 192.747) proposed assessing a civil penalty of \$ 1,500 for Respondent's failure to check and service three valves on its system. I have reduced the penalty to \$1,000 due to the fact that one of the three cited valves had actually been abandoned — although maps failed to

indicate the change at the time of inspection. It is important to note that this violation could seriously compromise the safe operation of the pipeline. In the event that an emergency occurred, it is imperative that these valves be immediately accessible. Thus, whenever a valve is covered over, no matter what the cause, the situation must be corrected without delay.

Accordingly, having reviewed all the assessment criteria, I assess Respondent a civil penalty of \$12,700. I find Respondent has the ability to pay the assessed civil penalty and the penalty will not affect Respondent's ability to continue to operate and provide services to its citizens.

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 \$ 12,700 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

Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is hereby ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations. The Regional Director may grant an extension of time upon receipt of a written request stating the reasons therefor, for completion of any of the actions required herein.

1. Establish written procedures to meet the requirements of 49 C.F.R. § 192.453 and 192.465(d), for prompt remedial action to correct any deficiencies indicated by monitoring (Item 1(b) above under "Findings of Violation").

2. Take prompt remedial action, if necessary, at the seven test sites to meet the requirements of 49 C.F.R. § 192.465(d) (Item 3 above).
3. Assign test stations on the main and distribution lines in your pipeline system to meet the requirements of 49 C.F.R. § 192.469 (Item 4 above).
4. Remediate existing and prevent possible atmospheric corrosion on the customer meters throughout your pipeline system to meet the requirements of 49 C.F.R. § 192.479(a) and (b) (Items 5 and 6 above).
5. Establish written procedures to minimize the hazard resulting from a gas pipeline emergency to meet the requirements of 49 C.F.R. § 192.615(a) (Item 9 above). Specifically, these procedures must provide for the following:
 - (A) Prompt and effective response to a notice of each type of emergency, including the following:
 - (i) Gas detected inside or near a building.
 - (ii) Fire located near or directly involving a pipeline facility.
 - (iii) Explosion occurring near or directly involving a pipeline facility.
 - (iv) Natural disaster.
 - (B) The availability of personnel, equipment, tools, and materials, as needed at the scene of an emergency.
 - (C) Emergency shutdown and pressure reduction in any section of the operator's pipeline system necessary to minimize hazards to life or property.
 - (D) Safely restoring any service outage.
6. Establish written emergency procedures to meet the requirements of 49 C.F.R. § 192.615(b) (Item 10 above). Specifically, these procedures must provide for the following:
 - (A) Furnishing supervisors who are responsible for emergency action a copy of that portion of the latest edition of required emergency procedures.
 - (B) Training appropriate operating personnel to assure that they are knowledgeable of the emergency procedures and verify that the training is effective.
 - (C) Reviewing employees' activities to determine whether the procedures were effectively followed in each emergency.

7. Establish and maintain liaison with appropriate officials to meet the requirements of 49 C.F.R. § 192.615(c) (Item 11 above).
8. Establish a continuing educational program to meet the requirements of 49 C.F.R. § 192.615(d) (Item 12 above).
9. Place and maintain line markers to meet the requirements of 49 C.F.R. § 192.707(a) (Item 13 above).
10. Secure disconnected service lines to meet the requirements of 49 C.F.R. § 192.727(d) (Item 14 above). Whenever service to a customer is discontinued, Respondent must ensure the following:
 - (A) The valve that is closed to prevent the flow of gas to the customer must be provided with a locking device or other means designed to prevent the opening of the valve by persons other than those authorized by the operator.
 - (B) A mechanical device or fitting that will prevent the flow of gas must be installed in the service line or in the meter assembly.
 - (C) The customer's piping must be physically disconnected from the gas supply and the open pipe ends sealed.
11. You must complete the above items within 60 days following receipt of the Final Order.
12. Submit copies of all completed procedures to the Director, Western Region, Office of Pipeline Safety, Research and Special Programs Administration, 12600 W. Colfax Avenue, Suite A250, Lakewood, Colorado 80215.

AMENDMENT OF PROCEDURES

The Notice alleged inadequacies in Respondent's anti-drug plan and proposed to require amendment of Respondent's procedures to comply with the requirements of 49 C.F.R. § 199.7. Respondent did not contest the proposed Notice of Amendment. Accordingly, I find that Respondent's procedures are inadequate to ensure the safe operation of its pipeline system. Pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. § 190.237, Respondent is hereby ordered to make the following changes to its procedures.

1. Your anti-drug plan, specifically "Testing Procedures (5)", does not adequately describe the procedure for reporting for a drug test. Your procedure should specify that an employee is permitted one-way travel time to the collection site, plus 30 minutes, to report for drug testing. This information is contained in RSPA's "Most Frequently Asked Drug and Alcohol Questions" manual.
2. Your anti-drug program fails to conform with § 199.11(c), Random Testing. The section marked "Preventive Testing 2(b)" does not provide an adequate procedure for determining the correct percentage of employees to be tested. Your procedure must specify that the random testing will be performed at an annualized rate equal to 25% of the company employees. (At the time the Notice was issued, the required random testing rate was 50%.)
3. Your anti-drug plan does not separate DOT and company policy by means of bold type, underlining, or other method of distinguishment. The employee must understand what is required by the City of Coalinga. This information is contained in RSPA's "Most Frequently Asked Drug and Alcohol Questions" manual.
4. You must complete the above items within 60 days following receipt of the Final Order.
5. Submit copies of all completed procedures to the Director, Western Region, Office of Pipeline Safety, Research and Special Programs Administration, 12600 W. Colfax Avenue, Suite A250, Lakewood, Colorado 80215.

WARNING ITEMS

The Notice did not propose a civil penalty for Items 1(a), 7, and 8(a) - (e); however, Respondent is warned that should it not take appropriate corrective action and a violation come to the attention of OPS in a subsequent inspection, enforcement action will be taken.

Under 49 U.S.C. § 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.

\s\ Richard B. Felder
Richard B. Felder
Associate Administrator
For Pipeline Safety

Date Issued: 10/20/97