

DEC 19 2011

Mr. Gary G. Loop
Chief Operating Officer and Senior Vice President
Dakota Gasification Company
P.O. Box 5540
Bismarck, ND 58506-5540

Re: CPF No. 3-2011-5001

Dear Mr. Loop:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$19,300. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated March 11, 2011. This enforcement action is now closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. David Barrett, Director, Central Region, PHMSA
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, Pipeline Safety,
PHMSA

CERTIFIED MAIL - RETURN RECEIPT REQUESTED [71791000164202997584]

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

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| In the Matter of |) | |
| |) | |
| Dakota Gasification Company, |) | CPF No. 3-2011-5001 |
| |) | |
| Respondent. |) | |
| |) | |

FINAL ORDER

On June 21-25, 2010, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of Dakota Gasification Company (Dakota or Respondent) in Beulah, North Dakota. Dakota’s pipeline system consists of 168 miles of 12-inch and 14-inch pipe, and transports carbon dioxide from the Dakota Gasification plant in Beulah to the Canadian border in Divide County, North Dakota.¹

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated March 3, 2011, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Dakota had violated 49 C.F.R. § 195.420(b) and proposed assessing a civil penalty of \$19,300 for the alleged violation.

Dakota responded to the Notice by letter dated March 17, 2011 (Response). The company did not contest the allegation of violation and paid the proposed civil penalty of \$19,300, as provided in 49 C.F.R. § 190.227. Payment of the penalty serves to close the case with prejudice to Respondent.

FINDING OF VIOLATION

In its Response, Dakota did not contest the allegation in the Notice that it violated 49 C.F.R. Part 195, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.420(b), which states:

¹ See *Violation Report, CPF 3-2011-5001*, at 1.

§ 195.420 Valve maintenance.

(a) . . .

(b) Each operator shall, at intervals not exceeding 7½ months, but at least twice each calendar year, inspect each mainline valve to determine that it is functioning properly.

The Notice alleged that Respondent violated 49 C.F.R. § 195.420(b) by failing to inspect each mainline valve along its pipeline at the required interval in 2007. Specifically, the Notice alleged that Dakota had failed to inspect mainline block valves 4, 5, 6, and 7 within 7½ months of the previous inspection. In addition, the Notice stated that Dakota had previously been cited for non-compliance with this same regulation in a Warning Letter (CPF #3-2006-5040W). Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.420(b) by failing to inspect each mainline valve at the required interval.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued