



U.S. Department  
of Transportation

**Pipeline and  
Hazardous Materials Safety  
Administration**

400 Seventh Street, S.W.  
Washington, D.C. 20590

JUN 29 2006

Alan C. Lukes  
Vice President & Chief Operating Officer  
Dakota Gasification Company  
1600 East Interstate Avenue  
Bismarck, ND 58503

Re: CPF No. 3-2005-5014

Dear Mr. Lukes:

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. I acknowledge receipt of your payment of \$6,000 and accept it as payment in full of the civil penalty assessed in the Final Order. The Final Order also acknowledges your completion of the proposed compliance order items to comply with the pipeline safety regulations. This case is now closed. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Sincerely,

James Reynolds  
Pipeline Compliance Registry  
Office of Pipeline Safety

Enclosure

cc: Ivan A. Huntoon  
Director, Central Region, PHP-300

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

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

\_\_\_\_\_)  
**In the Matter of** )  
 )  
**Dakota Gasification Company,** )  
 )  
**Respondent** )  
\_\_\_\_\_)

**CPF No. 3-2005-5014**

**FINAL ORDER**

On September 14-16, 2004, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety and North Dakota Public Service Commission conducted an on-site pipeline safety inspection of Respondent's Operator Qualification (OQ) records and procedures at Respondent's plant in Beulah, North Dakota. As a result of the inspection, the Director, Central Region, PHMSA, issued to Respondent, by letter dated March 10, 2005, 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 committed violations of 49 C.F.R. Part 195 and proposed assessing a civil penalty of \$6,000 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations.

Respondent responded to the Notice by letter dated March 28, 2005. Respondent did not contest the allegations and agreed to pay the proposed civil penalties. Respondent also sought clarification with respect to the compliance order.

**FINDINGS OF VIOLATION**

In its Response, Respondent did not contest the alleged violations in the Notice. Accordingly, I find that Respondent violated the following sections of 49 C.F.R. Part 195, as more fully described in the Notice:

49 C.F.R. § 195.505(b) (Notice Item 1) -- failing to follow its written qualification program to ensure that individuals performing covered tasks are qualified; and

49 C.F.R. § 195.507(a) (Notice Item 2) -- failing to identify a covered task and the date of current qualification for one individual.

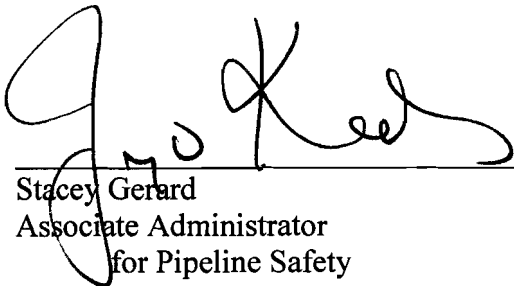
These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent. Having reviewed the record and considered the applicable penalty assessment criteria, I assess Respondent a civil penalty of \$6,000, already paid by Respondent.

### **COMPLIANCE ORDER**

The Notice proposed a Compliance Order with respect to the violations. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. The Director, Central Region, PHMSA has indicated that Respondent has taken the following actions specified in the proposed compliance order:

In regard to Item 1, Respondent qualified individuals for the relevant covered tasks and sent the associated records to PHMSA. Respondents also identified and examined those locations where unqualified individuals performed covered tasks and corrected any anomalies. Respondent sent documentation of the examinations to PHMSA.<sup>1</sup> In regard to Item 2, Respondent identified the task for which the specified individual was qualified with the date of qualification and sent copies of the completed records to PHMSA.

Accordingly, since compliance has been achieved with respect to these violations, it is unnecessary to include compliance terms in this Order. The terms and conditions of this Final Order are effective on receipt.

  
\_\_\_\_\_  
for Stacey Gerard  
Associate Administrator  
for Pipeline Safety

JUN 29 2006

\_\_\_\_\_  
Date Issued

<sup>1</sup> Respondent's letter dated March 28, 2005 provided information demonstrating that re-excavation of the carbon dioxide pipeline to re-inspect the coating was unnecessary. The Director, Central Region agreed.