



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

DEC 31 2002

Mr. Robert Matejek
Vice President - Operations
Merit Energy Company
12222 Merit Drive
Suite 1500
Dallas, TX 75251

Re: CPF No. 5-2002-5026

Dear Mr. Matejek:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation and requires certain corrective action. When the terms of the compliance order are completed, as determined by the Director, Western Region, OPS, this enforcement action will be closed. Your receipt of this 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
OFFICE OF PIPELINE SAFETY
WASHINGTON, DC 20590

In the Matter of)
)
Merit Energy Company,)
)
Respondent.)
)

CPF No. 5-2002-5026

FINAL ORDER

On June 26-28, 2002, 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 Bairoil, Wyoming. As a result of the inspection, the Director, Western Region, OPS, issued to Respondent, by letter dated July 12, 2002, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent violated 49 C.F.R. §§ 195.402(c)(3), 195.403, 195.404, 195.589, 195.412, and 195.402(c)(10) (Items 1-6 respectively), and proposed that Respondent take certain measures to correct the alleged violations.

Respondent did not respond to the Notice within 30 days after it received the Notice. Respondent's failure to respond waives its right to contest the Notice and authorizes me to find the facts as alleged in the Notice and issue a Final Order under 49 C.F.R. § 190.213. Respondent did not request a hearing, consequently, Respondent waived its right to one.

FINDINGS OF VIOLATION

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. § 195.402(c)(3) -- failure to adequately prepare and follow a site-specific operations, maintenance, and emergencies procedural manual for Respondent's carbon dioxide pipeline that includes descriptive procedures for operating, maintaining, and repairing the subject pipeline in accordance with the requirements of Part 195;

49 C.F.R. § 195.403 -- failure to adequately establish and conduct a continuing personnel training program for its personnel that operate and maintain the carbon dioxide pipeline;

49 C.F.R. § 195.404 -- failure to adequately maintain maps and records, including records of the date, location, and description of repairs and inspections performed on the subject pipeline;

49 C.F.R. § 195.589 -- failure to maintain records demonstrating the adequacy of the corrosion control measures required for Respondent's carbon dioxide pipeline that show, among other things, the location of cathodically protected pipeline, cathodic protection facilities, and neighboring structures bonded to cathodic protection systems;

49 C.F.R. § 195.402(c)(10) -- failure to establish procedures for abandoning pipeline facilities in Respondent's operations, maintenance, and emergencies procedural manual that include, among other things, procedures for safe disconnection from an operating pipeline system, purging of combustibles, and sealing abandoned facilities left in place.

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

COMPLIANCE ORDER

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. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. Prepare and follow a site-specific operations, maintenance, and emergencies procedural manual for the carbon dioxide pipeline in accordance with Section 195.402 that includes sufficiently detailed written procedures to enable Respondent's personnel to recognize and respond to safety-related conditions and to operate, maintain and repair the subject pipeline in a safe and reliable manner.
2. Establish and conduct a continuing personnel training program in accordance with Section 195.403, including, among other things, periodic performance reviews evaluating whether the objectives of the training program set forth in paragraph (a) of this section are being met. The training program must also provide for periodic modifications to ensure the program's continuing effectiveness.
3. Establish and maintain a record keeping system for the subject pipeline in accordance with Section 195.404, including, among other things, records of the date, location, and description of pipeline repairs and inspections. The record keeping system must also ensure that any records created by maintenance contractors are regularly reviewed by Respondent to ensure that the pipeline is being operated in compliance with the pipeline safety regulations applicable to its operations.

4. Determine the extent of the carbon dioxide pipeline system's cathodic protection facilities by performing the necessary electrical field tests in coordination with the owners and operators of the other underground metallic structures in the vicinity of the pipeline. After Respondent's cathodic protection facilities are identified, a determination is made as to their adequacy, and any necessary remedial measures are taken, Respondent must establish operations and maintenance procedures for the ongoing monitoring and maintaining of cathodic protection against corrosion in accordance with Part 195, Subpart H.
5. Establish and maintain a record keeping system in accordance with Section 195.589 that shows, among other things, the location of Respondent's cathodically protected pipeline, cathodic protection facilities, and neighboring structures bonded to its cathodic protection systems, and demonstrates the adequacy of the corrosion control measures required for the subject pipeline under Part 195, Subpart H.
6. Establish comprehensive procedures for abandoning pipeline facilities in accordance with Section 195.402(c)(10) that include, among other things, a detailed purging process to ensure the integrity of any pipeline being abandoned.
7. Respondent must accomplish the above items within 60 days following receipt of this Final Order. All documents, procedures, action plans, schedules, and evaluations demonstrating compliance with this Order should be submitted to the Director, Western Region, Office of Pipeline Safety, Golden Hills Centre, Suite A-250, 12600 West Colfax Avenue, Lakewood, CO 80215-3736.

The Director, Western Region, OPS, may grant an extension of time to comply with any of the required items upon a request by the Respondent demonstrating good cause for an extension.

WARNING ITEM

The Notice did not propose a civil penalty or corrective action for Item 5 in the Notice, failure to inspect a pipeline right-of-way within the required interval; therefore, Respondent is warned that if it does not take appropriate corrective action to address the item and OPS finds a violation 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 Order and must contain a brief statement of the issue(s). All terms of the Order, including any required corrective action, shall remain in full effect unless the Associate Administrator, upon request, grants a stay.

Failure to comply with this Order may result in the assessment of civil penalties of up to \$25,000 per violation per day, or in the referral of the case for judicial enforcement. The terms and conditions of this Order are effective on receipt.



Stacey Gerard
Associate Administrator
for Pipeline Safety

DEC 31 2002

Date Issued

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