U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

DEC 11 2003

Mr. Myron Hoover
General Manager
Jayhawk Pipeline, L.L.C.
P.O. Box 1404
1391 Iron Horse Road
McPherson, Kansas 67460

Re: CPF No. 3-2002-5021

Dear Mr. Hoover:

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, Central Region, 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,

James Reynolds
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	)	
Jayhawk Pipeline, L.L.C.	)	CPF No. 3-2002-5021
Respondent	)	

FINAL ORDER

On June 18-29, 2001, 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 McPherson, Kansas, as well as field facilities within Kansas, Oklahoma and Texas. As a result of the inspection, the Director, Central Region, OPS, issued to Respondent, by letter dated December 11, 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 had violated 49 C.F.R. §§ 195.406(a)(5) and 195.436 and proposed that Respondent take certain measures to correct the alleged violations.

Respondent responded to the Notice by letter dated January 7, 2003 (Response). Respondent contested Item 2 of the alleged violations and provided information concerning the corrective actions it had taken. Respondent did not request a hearing, and therefore has waived its right to one.

FINDINGS OF VIOLATION

Item 1 of the Notice alleged that Respondent violated 49 C.F.R. § 195.406(a)(5). In its Response, Respondent did not contest the alleged violation. Accordingly, I find that Respondent violated 49 C.F.R. § 195.406(a)(5) by failing to have sufficient records to correctly establish the maximum operating pressure for the following segments of its ERW pipeline: the 8-inch Susank to Geneseo, the 8-inch Geneseo to Inman, the 8-inch Burrton to Inman, the Valley Center to Inman, and the 6-inch Inman to McPherson. Respondent did not have sufficient records to satisfy the requirement that the maximum operating pressure shall be no greater than 80 percent of the operating pressure that the pipeline was subjected to for 4 or more continuous hours that can be demonstrated by recording charts or logs.

Item 2 of the Notice alleged that Respondent violated 49 C.F.R. § 195.436 by failing to provide adequate security protection for its Sublette and Schurr, Kansas facilities and breakout tank areas. Section 195.436 requires Respondent to provide protection for each pumping station and breakout tank area and other exposed facility from vandalism and unauthorized entry. Respondent has installed eight-foot chain link security fences around its breakout tank ladders and chains on the valves. The Notice alleges that these measures alone do not provide adequate security protection under § 195.436.

In its Response, Respondent contended that its security measures are adequate to protect its facilities. Respondent asserted that its facilities are located in an isolated rural area, which presents a low risk of security breach. For this reason, Respondent argued, the fencing around the tank ladders and the locks on the valves provide an adequate degree of protection from vandalism and unauthorized entry, and therefore comply with § 195.436.

Section 195.436 requires that each operator provide protection for each pumping station and breakout tank area and other exposed facility from vandalism and unauthorized entry. Respondent's chain link fence installations surround its breakout tank ladders, but do not protect the breakout tank areas as § 195.436 requires. Similarly, the valve locks Respondent has in place do not afford protection for the areas that Respondent is required to protect. I find no support in the regulation for Respondent's assertion that it is permitted to take lesser precautions for facilities located in isolated rural areas. The regulation requires that each pumping station and breakout tank area and other exposed facility be protected. Respondent's security measures do not afford protection for these areas; and therefore, they do not meet the minimum requirements for security under § 195.436. Accordingly, I find that Respondent violated 49 C.F.R. § 195.436 by failing to provide adequate security protection for the breakout tank areas and the other exposed facilities at its Sublette and Schurr, Kansas facilities.

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

COMPLIANCE ORDER

The Notice proposed a compliance order for the violations of 49 C.F.R. §§ 195.406(a)(5) and 195.436. Respondent has demonstrated corrective action addressing Item 1 in the Proposed Compliance Order by establishing the maximum operating pressure of the specified line segments. Because Respondent's actions satisfied the proposed compliance terms, no need exists to issue a compliance order for the violation of § 195.406(a)(5).

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). Evaluate the security fencing at each of your pump stations and breakout tank areas to determine which facilities require improved or additional fencing.

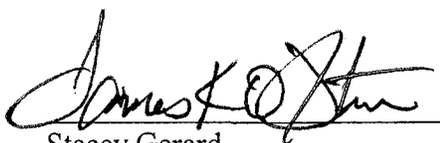
2). Submit plans and proposed scheduling for improved or additional fencing for each facility lacking adequate security fencing to the Director, Central Region, OPS, for approval. The plans shall be submitted within 60 days following your receipt of this Final Order. All security fence improvements and additions shall be completed within 1 year following your receipt of this Final Order.

3). After preparing records and completing actions required by this Final Order, submit the records and notices of completed actions to the Director, Central Region, OPS.

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

Failure to comply with this Final Order may result in the assessment of civil penalties of up to $100,000 per violation per day, or in the referral of the case for judicial enforcement.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a 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 terms of the order, including any required corrective action, remain in full effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order are effective on receipt.



Stacey Gerard
Associate Administrator
for Pipeline Safety

DEC 11 2003

Date Issued