



US Department
of Transportation

**Research and
Special Programs
Administration**

400 Seventh Street, SW
Washington, DC 20590

NOV - 3 2004

Mr. Richard N. Warne
City Manager
City of Coalinga
155 West Durian Avenue
Coalinga, CA 93210

Re: CPF Nos. 5-2003-0013, 5-2000-0003, 58005

Dear Mr. Warne:

Enclosed are the Final Orders issued by the Associate Administrator for Pipeline Safety in the above-referenced cases. They make findings of violation, assess civil penalties of \$24,500, and specify actions to be taken to comply with the pipeline safety regulations. Your receipt of the Final Orders constitutes service of those documents under 49 C.F.R. § 190.5.

The Associate Administrator also offers the enclosed Settlement Agreement. Execution of the agreement stays payment of the civil penalties pending your compliance with the provisions of the Settlement Agreement. Please sign both copies of the enclosed agreement and return both copies via express service to Mr. Benjamin Fred, Office of the Chief Counsel, Research and Special Programs Administration, Suite 8417, 400 Seventh Street, SW, Washington, DC 20590. If you have any questions with regards to this matter, please contact Mr. Fred at (202) 366-4400.

Sincerely,

James Reynolds
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosures

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

In the Matter of)
)
City of Coalinga,) CPF No. 58005
)
Respondent)
_____)

FINAL ORDER

On April 22 through 24, 1997, pursuant to 49 U.S.C. § 60117, a representative of the California Public Utilities Commission, as agent for the Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of Respondent's facilities and records in Coalinga, California. As a result of the inspection, the Director, Western Region, OPS, issued to Respondent, by letter dated January 29, 1998, a Notice of Probable Violation, Proposed Civil Penalty and Proposed Compliance Order. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had committed violations of 49 C.F.R. Part 192 and proposed assessing a civil penalty of \$9,500 for the alleged violation of § 192.747. The Notice also proposed that Respondent take certain measures to correct the alleged violations.

After requesting and receiving an extension of time to respond, Respondent responded to the Notice by letter dated March 27, 1998 (Response). Respondent did not contest the allegations of violation but offered an explanation and requested that the proposed civil penalty be reduced or eliminated. Respondent did not request a hearing, and therefore waived its right to one.

FINDINGS OF VIOLATION

In its Response, Respondent did not contest the violations alleged in the Notice. Accordingly, I find that Respondent violated the following sections of 49 C.F.R. Part 192, as more fully described in the Notice:

49 C.F.R. § 192.225(a) – failing to maintain records demonstrating that welding is performed by welders qualified under § 192.227;

49 C.F.R. § 192.225(b) – failing to have records of qualified welding procedures and the results of qualifying tests for welding performed on the system;

49 C.F.R. § 192.465(a) – failing to test each pipeline under cathodic protection at least once each calendar year, with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of § 192.463. Respondent monitored the following locations on a 10 percent sampling basis, even though the main and connected services were in excess of 100 feet in length: 296 N. 4th, 286 N. 4th, and 266 N. 4th Streets.

49 C.F.R. § 192.465(d) – failing to take prompt remedial action to correct cathodic protection deficiencies indicated by below -criteria readings at the following locations: 498 E. Polk, 596 Polk, 436 Roosevelt, 498 Polk, 197 Alfred, 296 N. 4th, 286 N. 4th, and 266 N. 4th Streets; and

49 C.F.R. § 192.747 – failing to check and service 95 distribution valves during the 1995 calendar year. Valve 9-C-5 had been serviced, but had not been operated since 1987. Valve 9-G-2 was missing a valve wheel necessary for its operation. Respondent's records also did not indicate if a valve had been paved over or if remedial action was necessary.

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

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to a civil penalty not to exceed \$100,000 per violation for each day of the violation up to a maximum of \$1,000,000 for any related series of violations.

49 U.S.C. § 60122 and 49 C.F.R. § 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 a civil penalty of \$9,500 for failing to check and service 95 distribution valves during the 1995 calendar year. In its Response, Respondent explained that valve maintenance had been scheduled for September 1995, but was postponed due to a major water metering project that occupied a majority of Respondent's staff from April 1995 until March 1996. When the water metering project ended in 1996, Respondent conducted the required valve maintenance.

Proper maintenance and operation of distribution valves is critical to the safety of a distribution system in the event that the flow of gas must be isolated or controlled quickly. The inability to locate or properly operate each of the distribution valves in an emergency can increase the risk of a hazardous gas release. As the operator of a natural gas distribution system, Respondent is obligated to ensure that the pipeline system complies with the pipeline safety regulations applicable to that system. Respondent's outside obligations do not excuse its failure to comply with the requirement that it check and service distribution valves once each calendar year.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$9,500.

Payment of the civil penalty must be made within 20 days of service. Payment may be made by sending a certified check or money order (containing the CPF Number for this case) payable to "U.S. Department of Transportation" to the Federal Aviation Administration, Mike Monroney Aeronautical Center, Financial Operations Division (AMZ-120), P.O. Box 25082, Oklahoma City, OK 73125.

Federal regulations (49 C.F.R. § 89.21(b)(3)) also permit this payment to 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. Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-120), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125; (405) 954-8893.

Failure to pay the \$9,500 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 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 a United States District Court.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to the violations of 49 C.F.R. §§ 192.225(a) and (b), 192.465(a) and (d), and 192.747. 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 ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations. Respondent must -

1. Produce and maintain documentation demonstrating that welding is performed by welders qualified in accordance with § 192.227.
2. Develop qualified welding procedures and document the results of the qualifying tests as required by § 192.225(b).
3. Test cathodic protection at the following locations at least once each calendar year, with intervals not exceeding 15 months, to determine the adequacy of the cathodic protection: 296 N. 4th, 286 N. 4th, and 266 N. 4th Streets.
4. Take remedial action to bring cathodic protection levels into compliance at the following locations: 498 E. Polk, 596 Polk, 436 Roosevelt, 498 Polk, 197 Alfred, 296 N. 4th, 286 N. 4th, and 266 N. 4th Streets.

5. Install the valve wheel required for proper operation of Valve 9-G-2 near Cherry and Elm Streets.
6. Submit to the Director, Western Region, OPS within 30 days of receipt of this Final Order a plan for completing each of the above items, including dates for completion of the required actions;
7. Provide semi-annual written reports of progress made towards achieving compliance. The semi-annual reports are due on February 1 and July 1 of each calendar year until such time as the Regional Director is satisfied that all requirements have been met. The initial report must be submitted within 30 days of receipt of this Final Order.
8. When compliance has been achieved, submit documentation to the Regional Director demonstrating the completion of each of the above items.

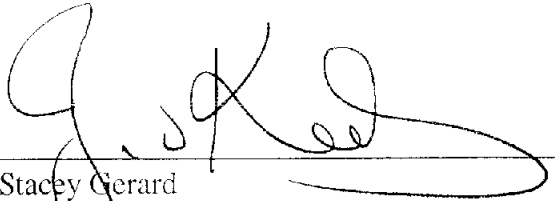
The Regional Director may grant an extension of time to comply with any of the required items upon a written request by the Respondent demonstrating good cause for an extension.

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.

WARNING ITEM

The Notice did not propose a civil penalty or corrective action for one item in the Notice; therefore, this is considered a warning item. Respondent is warned that if it does not take appropriate action to correct this item, enforcement action will be taken if a subsequent inspection reveals a violation. The warning was for –

49 C.F.R. § 192.13(c) – failing to follow procedures for operations, maintenance, and emergencies (OM&E) by failing to provide personnel with combustible gas indicators for leak detection, and by failing to test 55 fixed locations during the annual cathodic protection monitoring for calendar year 1996.



Stacey Gerard
Associate Administrator
for Pipeline Safety

HOV - 3 1996

Date Issued