



U.S. Department  
of Transportation

Research and  
Special Programs  
Administration

Office of the  
Chief Counsel

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

DEC 21 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, 54017

Dear Mr. Warne:

Enclosed is your copy of the Settlement Agreement concerning payment of the civil penalties assessed in the above-referenced cases. Under the agreement, payment of the civil penalties is stayed pending determination of the City of Coalinga's performance with respect to the terms of the Compliance Orders in those cases.

Sincerely,

A handwritten signature in cursive script, appearing to read "Benjamin Fred".

Benjamin Fred  
Attorney

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	)	
City of Coalinga,	)	
Respondent	)	CPF Nos. 5-2003-0013, 5-2000-0003, 58005, 54017

**SETTLEMENT AGREEMENT**

WHEREAS, pursuant to 49 U.S.C. § 60101 et seq. and the regulations promulgated thereunder, the Office of Pipeline Safety, Research and Special Programs Administration (OPS) issued the following Final Orders in the above-referenced cases finding violations of 49 C.F.R. Part 192, assessing civil penalties, and requiring specific actions to comply with the pipeline safety regulations: a Final Order in CPF No. 54017 issued on October 20, 1997, assessing a civil penalty of \$12,700 and requiring specific corrective action; a Final Order in CPF No. 58005 issued on November 3, 2004, assessing a civil penalty of \$9,500 and requiring corrective action; a Final Order in CPF No. 5-2000-0003 issued on November 3, 2004, requiring corrective action; and a Final Order in CPF No. 5-2003-0013 issued on November 3, 2004, assessing a civil penalty of \$15,000 and requiring specific corrective action;

WHEREAS, the Final Orders have not been changed or modified, and are incorporated herein by reference;

WHEREAS, Respondent has completed the corrective actions ordered in CPF No. 54017;

WHEREAS, Respondent has not paid the civil penalties assessed in the above-referenced orders;

WHEREAS, OPS recognizes that the remaining corrective actions required by the above-referenced orders will be costly and Respondent's limited financial resources may be strained in completing the corrective action;

WHEREAS, Respondent qualifies as a "small entity" under the Small Business Regulatory Enforcement Fairness Act of 1996, as defined in 5 U.S.C. § 601(6);

WHEREAS, 49 U.S.C. § 60122 and 49 C.F.R. § 190.221 authorize OPS to compromise civil penalties assessed pursuant thereto;

NOW THEREFORE, in consideration of the premises herein, the undersigned agree as follows:

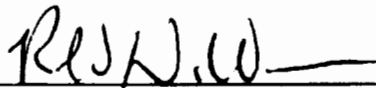
1. Upon execution of this agreement, payment of the civil penalties assessed by the above-referenced orders shall be stayed and shall not become due until such time as OPS has determined, by administrative action or by reference of the matter to the Attorney General for judicial enforcement, that there has been a violation of the terms of the Compliance Orders issued in the above-referenced cases or the terms of this Settlement Agreement, but upon notice by OPS that such determination has been made, the civil penalty shall become due immediately.

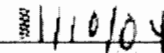
Upon execution of this agreement, Respondent waives any rights to further administrative or judicial review of the Final Orders and agrees to pay the civil penalties upon notice by OPS of a determination of violation of the terms of the Compliance Orders.


Upon execution of this agreement, Respondent waives any rights to further administrative or judicial review of the validity of the Compliance Orders and, for the purposes of this agreement and the obligation to pay the civil penalties which would arise thereunder, accepts as final and waives any right to seek judicial review of the determination referred to in paragraph 1, above.

4. Upon execution of this agreement, Respondent will keep an accounting of all moneys spent to achieve compliance with the Compliance Orders and include this accounting in the semi-annual progress reports submitted pursuant to those Orders.
5. Upon written notice by OPS that the corrective action required by the Compliance Orders is satisfactory and that the above-referenced cases are closed and provided the civil penalties have not become due and payable because of a determination referred to in paragraph 1, above, OPS shall be forever barred from commencement or institution of a civil action or other claim for recovery of said civil penalties.
6. Nothing in this agreement limits or otherwise modifies the rights which OPS has to seek enforcement of the terms of the Compliance Orders by administrative civil assessment of penalty or judicial action.
7. Nothing in this agreement modifies the findings made in the above-referenced orders.
8. The terms of this Agreement are in addition to the duties imposed on Respondent by the pipeline safety laws and regulations promulgated thereunder. Compliance with the terms of this Agreement shall not excuse any failure to comply with these laws and regulations. Nothing in this agreement limits or otherwise modifies the rights which OPS has to enforce the pipeline safety laws and regulations.

9. Respondent voluntarily signs this agreement and states that no promises or representations have been made to Respondent other than the agreements and considerations herein expressed.

  
\_\_\_\_\_  
Richard N. Warne  
City Manager  
City of Coalinga

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
*for* Stacey Gerard  
Associate Administrator for Pipeline Safety  
Research and Special Programs Administration

DEC 21 2004  
\_\_\_\_\_  
Date