



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

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WASH. UT. & TP. COMM.

Mr. Chuck Mosher
Chair, Washington State
Citizens Committee on Pipeline Safety
PO Box 47250
Olympia, WA 98504-7250

Dear Mr. Mosher:

Thank you for your letter to Secretary Mineta dated March 12, 2004, expressing concern about the U.S. Department of Transportation's (Department) ability to collect civil penalties resulting from the tragic events in Bellingham, Washington in June 1999.

We share your interest in concluding enforcement action for the pipeline failure that led to the tragedy in Bellingham. You should know that the Department's Research and Special Programs Administration (RSPA) worked closely with the Department of Justice and the Environmental Protection Agency in a combined Federal enforcement effort that has already yielded over \$100 million in criminal and civil fines and additional preventive and safety measures. The companies were convicted of felony charges under the Pipeline Safety regulations and misdemeanor charges under the Clean Water Act. In addition to criminal fines totaling \$21 million and civil penalties totaling \$15 million (half of which will be paid to the State of Washington), the effort resulted in the companies having to undertake preventive and safety measures that will cost them more than \$75 million.

As a result of these and other financial pressures, the Olympic Pipeline Company has gone into bankruptcy proceedings. This will delay, but not eliminate, Federal claims against it. Like the other Federal agencies with potential claims against the company (the Environmental Protection Agency, the U.S. Coast Guard and the Departments of Interior and Commerce), RSPA has filed a proof of claim in the bankruptcy proceeding. In RSPA's case, the proof of claim was filed for the entire amount of its proposed civil penalty - \$3.05 million.

RSPA's investigation commenced immediately following the incident in June 1999. Within a year, RSPA had issued a Notice of Probable Violation (NOPV) indicating the violations that were believed to have occurred and proposing a civil penalty of \$3.05 million. The maximum amount that could then be assessed under the pipeline safety law. In taking that action, RSPA satisfied the statute of limitations, which

requires an agency to commence an administrative proceeding within five years of the events at issue.

In May of 2002, before RSPA could schedule a hearing on the NOPV, the United States Attorney's office asked RSPA to defer administrative action pending resolution of the criminal case. To avoid interfering with the criminal case, RSPA stayed its prosecution of the administrative penalty case. RSPA nevertheless continued working to require the companies to undertake corrective and remedial actions.

RSPA also continued to provide technical and investigative expertise in support of the larger Federal enforcement effort. In a recent letter, Assistant Attorney General Thomas L. Sansonetti specifically commended the five RSPA pipeline safety engineers who worked on this case. Without their efforts, the Federal Government could not have achieved this ground-breaking civil consent decree, one which exacted total penalties more than ten times larger than the maximum amount RSPA alone could propose under the pipeline safety law.

Nothing can ever be done to restore the terrible loss of life, but at least some good has emerged from this tragedy. The citizens of Washington State have benefited from more than a \$100 million dollars of safety improvements on the Olympic Pipeline, that were directed by RSPA's corrective action orders and the civil settlements. The pipeline companies involved in the incident have been held accountable for both civil and criminal violations and have paid the largest penalty ever assessed in a pipeline rupture case. Two pipeline managers were sentenced to prison. The tragedy spurred Congress to pass the Pipeline Safety Improvement Act of 2002, which has given the Department new and stronger tools to enforce pipeline safety. All pipeline companies have been put on notice that the consequences of noncompliance are severe.

The comprehensiveness of the Federal enforcement actions and the magnitude of their results should reassure the citizens of Washington State that the Department's pipeline safety enforcement program is committed to aggressive pursuit of the twin objectives of punishment for past wrongs and deterrence of future ones.

If we can be of further assistance, please do not hesitate to contact me or James Wiggins, Director Policy and Program Support, at (202) 366-4831.

Sincerely yours,



Samuel G. Bonasso
Deputy Administrator