

WARNING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

July 28, 2009

Mr. David Wallen
Vice President
MoGas Pipeline LLC
110 Algana Ct.
St. Peters, MO 63376

CPF 3-2009-1014W

Dear Mr. Wallen:

On March 19-21, 2007, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) and the Missouri Public Service Commission, pursuant to Chapter 601 of 49 United States Code inspected the MoGas Pipeline (previously Missouri Pipeline Company [MPC]) integrity management plan and procedures in St. Peters, Missouri.

As a result of the inspection, it appears that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violations are:

§192.911 What are the elements of an integrity management program?

An operator's initial integrity management program begins with a framework (see §192.907) and evolves into a more detailed and comprehensive integrity management program, as information is gained and incorporated into the program. An operator must make continual improvements to its program. The initial program framework and subsequent program must, at minimum, contain the following elements. (When indicated, refer to ASME/ANSI B31.8S (ibr, see §192.7) for more detailed information on the listed element.)

1. §192.911 (a) An identification of all high consequence areas, in accordance with §192.905.

§192.903 *High consequence area* means an area established by one of the methods described in paragraphs (1) or (2) as follows:

- (1) An area defined as—
 - (i) A Class 3 location under §192.5; or
 - (ii) A Class 4 location under §192.5; or
 - (iii) Any area in a Class 1 or Class 2 location where the potential impact radius is greater than 660 feet (200 meters), and the area within a potential impact circle contains 20 or more buildings intended for human occupancy; or
 - (iv) Any area in a Class 1 or Class 2 location where the potential impact circle contains an identified site.

Identified site means each of the following areas:

- (a) An outside area or open structure that is occupied by twenty (20) or more persons on at least 50 days in any twelve (12)-month period. . . .
- (b) A building that is occupied by twenty (20) or more persons on at least five (5) days a week for ten (10) weeks in any twelve (12)-month period.
- (c) A facility occupied by persons who are confined, are of impaired mobility, or would be difficult to evacuate.

§192.905(b)(1) **Identified sites.** An operator must identify an identified site, for purposes of this subpart, from information the operator has obtained from routine operation and maintenance activities and from public officials with safety or emergency response or planning responsibilities who indicate to the operator that they know of locations that meet the identified site criteria. These public officials could include officials on a local emergency planning commission or relevant Native American tribal officials.

(2) If a public official with safety or emergency response or planning responsibilities informs an operator that it does not have the information to identify an identified site, the operator must use one of the following sources, as appropriate, to identify these sites.

- (i) Visible marking (e.g., a sign); or
- (ii) The site is licensed or registered by a Federal, State, or local government agency; or
- (iii) The site is on a list (including a list on an internet web site) or map maintained by or available from a Federal, State, or local government agency and available to the general public.

- **Item 1A: §192.903**

During the inspection it was noted that the building next to the Algana TBS should have been considered an identified site because of its occupancy. MPC interpreted the identified site definition incorrectly, which led to this error. (It is noted that a high consequence area may no longer exist near the Algana building because of

changes to the pipeline MAOP). The determination of identified sites must consider the likely total occupancy of a building. In the case of a commercial building, like a bank, with potential customers inside, the total occupancy should include both employees and customers. MPC needs to take another look at potential identified sites along the pipeline in light of the rule requirements and the actual occupancy of buildings to determine if additional high consequence areas exist.

- **Item 1B: §192.905(b)**

Public officials were not contacted as part of the search for identified sites. MPC did not contact public officials because “a good faith effort” was made to identify sites through routine knowledge of the vicinity of the pipeline. This approach does not meet the rule requirements.

2. **§192.911(i) A performance plan as outlined in ASME/ANSI B31.8S, section 9 that includes performance measures meeting the requirements of §192.945.**

Item 2A: §192.945(a) General. An operator must include in its integrity management program methods to measure, on a semi-annual basis, whether the program is effective in assessing and evaluating the integrity of each covered pipeline segment and in protecting the high consequence areas. These measures must include the four overall performance measures specified in ASME/ANSI B31.8S (incorporated by reference, see §192.7), section 9.4, and the specific measures for each identified threat specified in ASME/ANSI B31.8S, Appendix A. An operator must submit the four overall performance measures, by electronic or other means, on a semi-annual frequency to OPS in accordance with §192.951. An operator must submit its first report on overall performance measures by August 31, 2004. Thereafter, the performance measures must be complete through June 30 and December 31 of each year and must be submitted within 2 months after those dates.

MPC reported 6/2006 IM program performance measures later than the required deadline, based on information from the Gas IM Performance Measures Web site.

3. **§192.911(k) A management of change process as outlined in ASME/ANSI B31.8S, section 11.**

Item 3A: ASME/ANSI B31.8S Section 11(b) The operator shall recognize that system changes can require changes in the integrity management program and, conversely, results from the program can cause system changes. The following are examples that are gas-pipeline specific, but are by no means all inclusive. . .

MPC did not conduct an analysis of the effects on the integrity management program of the pipeline change at Algona. MPC must ensure that an analysis of the effects of the Wentzville pipeline relocation on integrity management is performed

and all future changes that could impact the integrity management program are analyzed.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. We have reviewed the circumstances and supporting documents involved in this case, and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to correct the item(s) identified in this letter. Failure to do so will result in MoGas Pipeline LLC being subject to additional enforcement action.

No reply to this letter is required. If you choose to reply, in your correspondence please refer to **CPF 3-2009-1014W**. Be advised that all material you submit in response to this enforcement action is subject to being made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b).

Sincerely,

Ivan A. Huntoon
Director, Central Region
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Compliance Proceedings