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CPN PIPELINE COMPANY
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RIO VISTA, CALIFORNIA 94571
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July 9, 2007

Mr. Chris Hoidal
Director, Western Region
Pipeline and Hazardous Materials Safety Administration
12300 W. Dakota Ave., Suite 110
Lakewood, CO 80228

SENT TO COMPLIANCE REGISTRY
Hardcopy Electronically
of Copies 1 / Date 7/11/07

RE: CPF 5-2007-1006
Response to Proposed Civil Penalty and Compliance Order
Request for Hearing

Dear Mr. Hoidal:

Thank you for this opportunity to respond to the Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order of June 11, 2007. As explained in greater detail below, the purpose of this letter is to request a telephonic hearing, object to proposed compliance order items, and provide additional explanations.

CPN Pipeline Company welcomed the opportunity for PHMSA to review our Integrity Management Program, as Part 192, Subpart O and the ASME B31-8S standard on which the regulations are based is quite complex and somewhat ambiguous. There are many aspects of the standard that are easily misinterpreted, and for that reason we looked forward to discussing these ambiguities with your office, with the expectation we could clarify our understanding of the PHMSA standards and regulations which applied to CPN Pipeline assets. During the visit we had a very honest and open discussion with your team, hoping to improve our program, as we have with all of our past PHMSA and State audits. Based on the issues discussed during the audit close-out and the gravity of the findings, we were quite surprised to receive the Proposed Civil Penalty.

In response to the specific Items in the Order, CPN Pipeline offers the following explanations and additional information:

• **Item 1A: 192.947(d) & 192.905(a)**

It is true that the CPN IMP does not specifically describe how the company ensures potential equipment/measurement inaccuracies do not exclude the identification of all covered segments. However, as CPN identified HCAs for inclusion in the IMP, there were no cases where a small error in measurement, or accuracy of equipment would exclude an identified site, or result in the erroneous determination of a non-HCA segment. Covered segments were identified primarily using mapping and aerial photography. Field measurement devices were used in cases of new construction or previously unidentified structures, or in cases where the maps and photography indicated a particular occupied structure is close to the PIR. The tolerances on that equipment

would not have resulted in the erroneous inclusion or exclusion of a building or site. CPN will, however, document the specifications and tolerances of such equipment in the Integrity Management Program.

- **Item 1B: 192.947(d)**

The CPN Integrity Management Program, including the Baseline Assessment Plan was completed prior to December 17, 2004. The most recent Baseline Assessment Plan we were able to retrieve for the audit is dated February, 2005 because it is in the format of an Excel spreadsheet and had been overwritten. We failed to keep a copy of the BAP that was dated prior to 12/17/04, however we have several of the other IMP elements that were completed prior to 12/17/04. We can produce these documents, if necessary, and we are willing to certify that it was completed prior to that date. We have implemented improvements in our document control system to avoid this type of oversight in the future. See Exhibits 1B1 and 1B2.

- **Item 2A: 192.907(a)**

The Black Mountain-Robbins pipeline segment was not identified as an HCA in the initial version of CPN's Integrity Management Plan, as we admitted in the audit. It was, however, subsequently identified in Feb. 2005, two months later using a more detailed map prepared specifically for a Class Location and HCA Survey conducted by CPN.

The Robbins School was not an included identified site initially because the school and playground are 290 feet from the gas pipeline. The PIR for this pipeline is 210 feet. The perimeter fence around the school and adjacent field, however, is only 180 feet from the pipeline, which places it within the PIR. The initial HCA survey completed in December of 2004 did not fully consider the extent of the perimeter fencing, and it was not discovered until two months later, when a more detailed survey was completed with aerial photographs and maps. The IMP was updated as soon as this was discovered, as is evidenced by our semi-annual Performance Measure Report that was submitted on 2/18/05 and included the segment.

The Sutter Pipeline at SEC covered segment has been reviewed further, and determined to be non-HCA based on communication with SEC plant management. It has also been confirmed that this segment should not have initially been classified as an HCA because the administration building at the plant has never been occupied by 20 or more persons on at least five days a week for ten weeks a year. Plant management at the time SEC was classified as an HCA misunderstood the definition of identified site, and included all personnel, even though some were working 4-day work weeks, and others may have been shift workers. Please see Exhibits 2A1 and 2A2.

- **Item 3A: 192.937(b), IMP Section 6.3, Periodic Evaluations**

The CPN IMP states in Section 6.3, that CPN will establish an appropriate interval for performing required periodic evaluations following completion of the baseline

assessment. CPN did not interpret the standard to require periodic evaluations, even though the baseline assessments have not been complete. We assumed the standards to imply that a re-evaluation was required if conditions changed for a particular HCA (e.g. a new threat identified). We did not see much value in re-evaluating HCAs every year if nothing changed. Furthermore, CPN cannot identify in the standard or FAQs, where annual periodic evaluations are specified. CPN will, however, revise Section 6.3 of the IMP to specify annual evaluations.

- **Item 4A: 192.911(k), IMP Section 11.3, Management of Change**

Section 11.3 of the Integrity Management Plan states “The Company will use existing MOC procedures to document changes to the Integrity Management Program.” CPN Pipeline’s existing MOC procedure, as with all operating and maintenance procedures, is found in the CPN Operations and Maintenance Manual, under Procedure #40. All CPN personnel who will use or refer to the Integrity Management Program know where to find the MOC procedure. We will revise Section 11.3 to include the specific reference to Procedure #40.

- **Item 4B: 192.911(k), IMP Section 11.3, Management of Change**

CPN will revise the IMP Management of Change, Section 11.3 to include changes to procedures that potentially impact or interface with the IM program be evaluated through the MOC process. It is understood by CPN personnel that any changes potentially affecting the IMP or integrity of a pipeline system would be evaluated through the MOC process; however, it was not specifically stated in Section 11.3.

- **Item 4C: 192.911(k), IMP Section 11, Management of Change**

It is true, as indicated, that the installation of the low pressure switch on the Road 17 Line Break Valve was not reflected on the applicable engineered drawings at the time of the audit, however, manual updates to the drawings were completed prior to February 27, 2007.

CPN indicated in the audit that updates occur on a semi-annual basis, but that is in reference to completed large, wall size, overall system maps and overall system schematics that are produced by an outside engineering firm. Changes to our system (both jurisdictional and non-jurisdictional) occur quite often. CPN will update changes on specific P&IDs and schematics for the specific site within a short time frame of when the change occurs, usually within a month. It is not practical for CPN to produce system wide maps and schematics this often.

CPN is, however, in the process of revising our MOC procedure and documentation to be more specific, and include changes to, or changes affecting, the Integrity Management Program.

Objection to Proposed Civil Penalty

Upon review of the probable violations described above, CPN Pipeline believes that the Proposed Civil Penalties far exceed the nature, circumstances and gravity of the probable violations. PHMSA and other state agencies have audited CPN Pipeline's O&M procedures and field records several times, and have never levied a civil penalty. Given our history of very few prior probable violations, and what we thought was a good faith effort to comply with the B31.8S standard, even though it is considerably ambiguous and subjective, we feel that proposed civil penalties are inappropriate for the level of probable violation. None of the probable violations described above jeopardized the safety of the public, nor did they result in any economic or other benefit to CPN.

Objection to Proposed Compliance Order

CPN Pipeline has no objection to items 2-6 of the Proposed Compliance Order, as most of the changes were already in the process of being implemented. Per our response to Item 1A above, we are confident in the overall accuracy of our HCA identification process, and have used a conservative approach to ensure we have not excluded any covered pipeline segments. Therefore, we do not believe it is necessary to completely resurvey our pipelines.

CPN Pipeline is very proud of the open and honest communication we have maintained with DOT/PHMSA over the last several years. This cooperation, we feel, is very productive and instrumental in maintaining the safety and regulatory compliance of our pipeline systems. PHMSA has always maintained that its goal was to improve and promote pipeline safety and not be strictly an enforcement agency. Regrettably, the outcome of this Integrity Management audit seems to contradict this spirit of cooperation.

CPN Pipeline hereby requests a hearing by phone on the matters presented above if they cannot be settled informally, in advance, by telephone. We are also requesting a copy of the violation report and supporting evidence and documentation used by PHMSA. CPN will be represented by counsel at the hearing. We look forward to answering any questions you may have, or providing additional information, in advance of the hearing. I can be reached at 707-374-1505.

Respectfully,



Scott Vickers
Compliance Manager

Cc: Lyle Fedje
Kurt Seel

Attachment: Exhibits

Table 1A1 - Baseline Assessment Plan dated 1/4/05

Exhibit 1A2 - E-mail Chain Regarding HCA List

Scott Vickers

From: Lyle Fedje
Sent: Wednesday, June 27, 2007 10:42 AM
To: Scott Vickers; Chris Delaney
Subject: FW: HCA Ranking

Attachments: HCA ListRev 1-4-05.xls

fyi

-----Original Message-----

From: Mike Spears
Sent: Tuesday, January 04, 2005 9:04 AM
To: Chris Delaney
Cc: Lyle Fedje; Gary Woods
Subject: RE: HCA Ranking

Attached is Chris' spreadsheet updated to include Magic Valley, Baytown, Freestone, and Carville.



HCA ListRev
4-05.xls (24 KB).

-----Original Message-----

From: Chris Delaney
Sent: Wednesday, December 22, 2004 5:02 PM
To: Mike Spears
Cc: Lyle Fedje; Gary Woods
Subject: HCA Ranking

Mike,

Here is our HCA list with rankings based on the risk assessment we did. As we discussed, you will incorporate your segments onto this sheet. I've also included the Risk Analysis for information.

<< File: HCA List.xls >> << File: Risk Matrix - E. Antioch Lateral.doc >> << File: Risk Matrix - DOW Laterals.doc >> << File: Risk Matrix - Los Medanos Gas DEC Pipeline.doc >> << File: Risk Matrix - Los Medanos Gas LMEC Pipeline.doc >> << File: Risk Matrix - Loveridge Road Lateral.doc >> << File: Risk Matrix Hermiston.doc >> << File: Risk Matrix MGS-Yolo2-EI Macero.doc >> << File: Risk Matrix MN-Sunsweet North-to GL2.doc >> << File: Risk Matrix Sellers Ave.doc >> << File: Risk Matrix SRGS-Brentwood to Shell Chem.doc >> << File: Risk Matrix SRGS-Dutch Slough.doc >> << File: Risk Matrix SRGS-Los Medanos-Shell Chem.doc >> << File: Risk Matrix SRGS-Martinez pipeline.doc >>

Chris G. Delaney

Project Manager
Calpine Natural Gas Company
104 Woodmere Rd., Folsom, CA 95630
Phone: (916) 608-3851
Fax: (916) 294-0919

00000000 - E-mail Chain Regarding Sutter Administration Building Staff

Scott Vickers

From: Mary Gabel
Sent: Thursday, June 21, 2007 3:51 PM
To: Scott Vickers
Cc: Chris Delaney
Subject: RE:

I believe the total would be 17.

If you breakout the admin staff from the mgmt staff, 5 and 7 respectively, the admin staff staggered their schedules so there was only three on site on two of each five day week. Maintenance staff would equate to three as well as there are five working staggered shifts.

In summary that gives us a total on site for five days per week of:

Operators: 4
Admin: 3
Mgmt: 7
Maintenance 3

A total of 17.

Mary Gabel, Business Manager
Calpine, Sutter Projects
530-821-2071
530-821-5320 (fax)
530-682-7777 (cell)
mgabel@calpine.com

From: Scott Vickers
Sent: Thursday, June 21, 2007 3:31 PM
To: Mary Gabel
Cc: Chris Delaney
Subject: RE:

As we discussed over the phone, your entire maintenance staff, and some of your administrative staff are on a staggered 4 day, 10-hour work week starting back in 2001. Therefore, you would have had a maximum of 16 people occupying the building for 5 days per week around the time of 12/17/2004.

Currently, per Scott Reynolds, you have the following personnel occupying the SEC building on the same schedule:

Operators – Days: 4
Admin and Mgmt: 9

Maintenance: 5, only 4 days per week

In summary, it looks like you never had more than 16 people occupying the building 5 days per week, at least 10 weeks per year?

Thanks for your help.

6/25/2007

Scott Vickers

From: Mary Gabel
Sent: Thursday, June 21, 2007 2:56 PM
To: Scott Vickers
Subject:

Scott, I received your phone message. In reviewing my roster again I count the following full time employees on site on any given day at and around 12/31/04.

Operators: 4
Maintenance: 5
Admin & Mgmt: 12

Mary Gabel, Business Manager
Calpine, Sutter Projects
530-821-2071
530-821-5320 (fax)
530-682-7777 (cell)
mgabel@calpine.com

Exhibit 2A2 - Sutter Personnel as of 12/1/2004

Effective Date 12/01/2004

Business Unit	Location	Employee Name	Business Title
STTOM	SUTTR OFF	Warner,Edward	General Manager
STTOM	SUTTR OFF	Tullos,Diane	Compliance Manager
STTOM	SUTTR OFF	Cottrell,Matthew I	Operator Technician B
STTOM	SUTTR OFF	Gattenby,Daniel E	Purchasing Assistant II
STTOM	SUTTR OFF	Hood,Robert	Operator Technician A
STTOM	SUTTR OFF	Lawrence,John M	Operator Technician A
STTOM	SUTTR OFF	Kuzanek,Anthony	Operator Technician A
STTOM	SUTTR OFF	Williams,Thomas E	Operator Technician B
STTOM	SUTTR OFF	Buck,Michael J	Operator Technician B
STTOM	SUTTR OFF	Satchell,Thomas G	Operator Technician A
STTOM	SUTTR OFF	Best,Frederick L	Operator Technician A (Lead)
STTOM	SUTTR OFF	Prosser,Mary J	Plant Administrator
STTOM	SUTTR OFF	Snead,John	Operations Manager II
STTOM	SUTTR OFF	Randall,Charles L	Maintenance Planner
STTOM	SUTTR OFF	Reynolds,Scott	Manager/Maintenance
STTOM	SUTTR OFF	Decoto,Mark	Operator Technician B
STTOM	SUTTR OFF	Reynolds,Jacob	Operator Technician C
STTOM	SUTTR OFF	Asurmendi,Anthony M	Operator Technician C
STTOM	SUTTR OFF	Gabel,Mary	Business Manager II
STTOM	SUTTR OFF	Alcantara,Scott D	Compliance Specialist
STTOM	SUTTR OFF	Ibarra,Mariana	Administrative Assistant
STTOM	SUTTR OFF	Jackson,Jason N	Operator Technician B
STTOM	SUTTR OFF	Warta,Timothy	Materials Technician
STTOM	SUTTR OFF	Campbell,Karri	Plant Administrator
STTOM	SUTTR OFF	Cochrane,Corey	Operator Technician C
STTOM	SUTTR OFF	Morales Sr.,Lenny F.	Operator Technician B
STTOM	SUTTR OFF	Artero,Johnna	Project Administrator