



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

901 Locust Street, Suite 462
Kansas City, MO 64106-2641

WARNING LETTER

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

November 27, 2012

Mr. Gary Loop
VP & Chief Operating Officer
Dakota Gasification Company
1600 East Interstate Avenue
Bismarck, ND 58503

CPF #3-2012-5024W

Dear Mr. Loop:

On October 31 through November 3, 2011, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code, inspected Dakota Gasification Company's (DGC) procedures and supporting implementation records for their Integrity Management Program (IMP) in Beulah, North Dakota.

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:

§195.452 Pipeline integrity management in high consequence areas.

d) When must operators complete baseline assessments? Operators must complete baseline assessments as follows:

(3) Newly-identified areas.

(i) When information is available from the information analysis (see paragraph (g) of this section), or from Census Bureau maps, that the population density around a pipeline

segment has changed so as to fall within the definition in §195.450 of a high population area or other populated area, the operator must incorporate the area into its baseline assessment plan as a high consequence area within one year from the date the area is identified. An operator must complete the baseline assessment of any line pipe that could affect the newly-identified high consequence area within five years from the date the area is identified.

At the time of the inspection, DGC could not demonstrate that it had adequately reviewed the pipeline right-of-way for newly identified areas as required.

§195.452 Pipeline integrity management in high consequence areas.

(f) What are the elements of an integrity management program? An integrity management program begins with the initial framework. An operator must continually change the program to reflect operating experience, conclusions drawn from results of the integrity assessments, and other maintenance and surveillance data, and evaluation of consequences of a failure on the high consequence area. An operator must include, at minimum, each of the following elements in its written integrity management program:

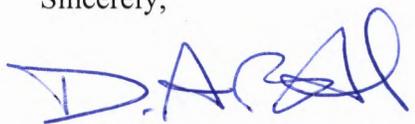
(7) Methods to measure the program's effectiveness (see paragraph (k) of this section);

At the time of inspection, DGC was unable to demonstrate that periodic evaluations of performance measures had been conducted to enhance DGC's understand of the performance measures and the impact on the specific integrity threats for segments.

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$200,000 per violation per day the violation persists up to a maximum of \$2,000,000 for a related series of violations. For violations occurring prior to January 4, 2012, the maximum penalty may not exceed \$100,000 per violation per day, with a maximum penalty not to exceed \$1,000,000 for a 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 Dakota Gasification Company 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 3-2012-5024W**. 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,

A handwritten signature in blue ink, appearing to read 'D. Barrett', with a stylized flourish at the end.

David Barrett
Director, Central Region
Pipeline and Hazardous Materials Safety Administration