



U.S. Department  
of Transportation

**Pipeline and  
Hazardous Materials Safety  
Administration**

12300 W. Dakota Ave., Suite 110  
Lakewood, CO 80228

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

March 6, 2012

Mr. Carlos R. Fandino, Jr.  
Director, Light & Power Department  
City of Vernon  
4305 Santa Fe Avenue  
Vernon, CA 90058

**CPF 5-2012-0004S**

Dear Mr. Fandino:

Enclosed is a Notice of Proposed Safety Order (Notice) issued in the above-referenced case. The Notice proposes that you take certain measures with respect to your municipal gas distribution system to ensure pipeline safety. Your options for responding are set forth in the Notice. Your receipt of the Notice constitutes service of that document under 49 C.F.R. § 190.5.

We look forward to a successful resolution to ensure pipeline safety. Please direct any questions on this matter to me at 720-963-3160.

Sincerely,

Chris Hoidal  
Director, Western Region  
Pipeline and Hazardous Materials Safety Administration

Enclosure: Notice of Proposed Safety Order  
49 C.F.R. §190.239

cc: Mr. Alan Mayberry, Deputy Associate Administrator for Pipeline Safety, PHMSA

**U.S. DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION  
OFFICE OF PIPELINE SAFETY  
WESTERN REGION  
LAKEWOOD, CO 80228**

In the Matter of	)	
	)	
City of Vernon,	)	CPF No. 5-2012-0004S
	)	
Respondent.	)	
	)	

**NOTICE OF PROPOSED SAFETY ORDER**

**Background and Purpose**

On January 31, 2012, the City of Vernon (City) notified the Director, Western Region, OPS (Director) that it planned to abandon its method of integrity reassessment, and switch from using external corrosion direct assessment (ECDA) methods to using a magnetic flux resonance in-line inspection tool (ILI). The City has elected to switch methods due to cost and logistics concerns. The City currently has a regulatory reassessment deadline of March 30, 2012 and due to the change in methods would no longer be able to meet that deadline.

The City has filed a Request for a Special Permit seeking an extension of the seven year reassessment period required under 49 C.F.R. § 192.939(b) from March 30, 2012 to December 31, 2012 to complete the reassessment of its line. In addition, in its Request for a Special Permit, the City seeks relief from the 180-day waiver process specified in 49 C.F.R. § 192.943(b).

As a result of follow up inquires and an investigation by the Western Region, it appears that a condition or conditions exist on your pipeline facilities that pose a pipeline integrity risk to public safety, property or the environment. Pursuant to 49 U.S.C. § 60117(l), PHMSA is issuing this Notice of Proposed Safety Order to notify you of the preliminary findings of this investigation and propose that you take measures to ensure that the public, property, and the environment are protected from the potential risk.

**Preliminary Findings**

- The City of Vernon operates an intrastate natural gas transmission pipeline entirely within the City of Vernon in Los Angeles County, California. The 7.3-mile line is 10.75-inch in diameter with a wall thickness of 0.365 inches and was constructed between

1997-2000 (the Pipeline). The Pipeline includes a lateral that serves the Malburg Generating Station. This section was constructed between 2002 and 2004. The Pipeline is connected to Southern California (SoCal) Gas Company's Line 765.

- The MAOP of the Pipeline is 650 psig but the City confirms that the typical operating pressure is between 300-400 psig.
- Pressure control and over pressure protection is provided by SoCal, and is not under direct control of the City.
- The entire Pipeline is located in a HCA running under the main city streets and in a highly industrialized area.
- The Pipeline was last hydrotested seven years ago, on March 30, 2005. Prior to 2005, the pipeline was idle. No other integrity assessment has occurred since that time.
- While the Pipeline passed a hydrotest in 2005, little else is known about any "time dependent" integrity threats e.g. corrosion, third party damage, that may have compromised the integrity of the Pipeline since the 2005 hydrotest.
- The City previously proposed using ECDA to inspect the integrity of the Pipeline. The City is now proposing to make the line piggable and switch to an ILI tool. The City has elected to switch methods due to cost and logistics concerns.
- The City proposes to inspect the 960 foot lateral to the Malburg Generating Station with guided wave ultrasonic technology.
- Finally, the City proposes to take 3.1 miles of the transmission pipeline out of service, pressurize with nitrogen, and cathodically protect the line. The remaining length of the active line will be 4.2 miles.
- Since the last assessment tool was run seven years ago and the City of Vernon expects that the next assessment tool will not be completed until at least 10 months now, and given the location of this line in a HCA, PHMSA is particularly concerned about the current integrity of the Pipeline. The unknown integrity of the Pipeline, particularly in an HCA, poses a risk to public safety, property, or the environment and therefore meets the standard for a proposed safety order.

### **Proposed Issuance of Safety Order**

Section 60117(l) of Title 49, United States Code, provides for the issuance of a safety order, after reasonable notice and the opportunity for a hearing, requiring corrective measures, which may include physical inspection, testing, repair, or other action, as appropriate. The basis for making the determination that a pipeline facility has a condition or conditions that pose a pipeline

integrity risk to public safety, property, or the environment is set forth both in the above-referenced statute and 49 C.F.R. § 190.239, a copy of which is enclosed.

After evaluating the foregoing preliminary findings of fact and considering the age of the pipe involved, the manufacturer, the hazardous nature of the product transported, the pressure required for transporting such product, the heavily developed areas where the pipeline facility is located, and the likelihood that the conditions could worsen or develop on other areas of the pipeline and potentially impact its serviceability, it appears that the continued operation of the affected pipeline without corrective measures would pose a pipeline integrity risk to public safety, property, or the environment.

Accordingly, PHMSA issues this Notice of Proposed Safety Order to notify Respondent of the proposed issuance of a safety order and to propose that Respondent take measures specified herein to address the potential risk.

### **Response to this Notice**

In accordance with § 190.239, you have 30 days following receipt of this Notice to submit a written response to the official who issued the Notice. If you do not respond within 30 days, this constitutes a waiver of your right to contest this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Safety Order.

In your response, you may notify Chris Hoidal (Director) that you intend to comply with the terms of the Notice as proposed, or you may request that an informal consultation be scheduled. Informal consultation provides you with the opportunity to explain the circumstances associated with the risk condition(s) alleged in the notice and, as appropriate, to present a proposal for a work plan or other remedial measures, without prejudice to your position in any subsequent hearing. If you and PHMSA agree within 30 days of informal consultation on a plan and schedule for you to address each identified risk condition, we may enter into a written consent agreement (Agreement). PHMSA would then issue an administrative consent order incorporating the terms of the Agreement.

If an Agreement is not reached, or if you have elected not to request informal consultation, you may request an administrative hearing in writing within 30 days following receipt of the Notice or within 10 days following the conclusion of an informal consultation that did not result in a consent agreement, as applicable. Following a hearing, if the Associate Administrator finds the facility to have a condition that poses a pipeline integrity risk to the public, property, or the environment in accordance with § 190.239, the Associate Administrator may issue a Safety Order.

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), you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted, along with the complete

original document, and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b).

In your correspondence on this matter, please refer to CPF **5-2012-0004S** and for each document you submit, please provide a copy in electronic format whenever possible.

### **Proposed Corrective Measures**

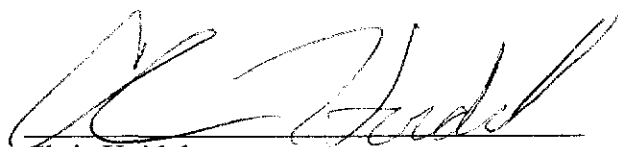
Pursuant to 49 U.S.C. § 60117(l) and 49 C.F.R. § 190.239, PHMSA proposes to issue a Safety Order to the City incorporating the following remedial requirements with respect to the Pipeline:

1. *Leak Surveys.* Conduct monthly leak surveys on the Pipeline.
2. *Maximum Allowable Operating Pressure Reduction.* Reduce the Maximum Allowable Operating Pressure (MAOP) on the Pipeline by 80 percent so that it does not exceed 520 psig. This pressure restriction will remain in effect until written approval to increase or restore the pressure is obtained from the Director. The Director may allow the removal or modification of the pressure restriction, upon a written request from Respondent demonstrating that increasing the pressure or returning the line to its original MAOP is justified based on a reliable engineering analysis. This analysis must show that the pressure increase is safe considering all known defects (either repaired or remaining), anomalies, outcome of girth weld evaluations and operating parameters in the Pipeline.
3. *Expedite Removal of 3.1 miles from Service:* Complete isolation of the 3.1 mile segments of the line and pressurize with nitrogen. If the line is to be considered for return to service, it must still comply with all applicable regulations in 49 CFR 192, including maintenance of cathodic protection levels.
4. *ILI Results.* Upon completion of a successful ILI tool run, a preliminary report outlining any anomaly indications requiring immediate or urgent action, must be submitted to the Director. Submittals must be made promptly as the information becomes available from the vendor.
5. *Monthly Reports.* Submit monthly reports to the Director that: (1) include available data and results of the testing and evaluations required by the safety order; and (2) describe the progress of the repairs and other remedial actions being undertaken.
6. *Extensions of Time.* The Director may grant an extension of time for compliance with any of the terms of the safety order upon a written request timely submitted demonstrating good cause for an extension.
7. *Appeals.* Respondent may appeal any decision of the Director to the Associate Administrator for Pipeline Safety. Decisions of the Associate Administrator shall be final.

8. *Documentation.* It is requested, but not mandated, that the City maintain documentation of the safety improvement costs associated with fulfilling this Safety Order and submit the total to Chris Hoidal, Director, Western Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.

The actions proposed by this Notice of Proposed Safety Order are in addition to and do not waive any requirements that apply to Respondent's pipeline system under 49 C.F.R. Parts 190 through 199, under any other order issued to Respondent under authority of 49 U.S.C. § 60101 et seq., or under any other provision of Federal or state law.

After receiving and analyzing additional data in the course of this proceeding, PHMSA may identify other safety measures that need to be taken. In that event, Respondent will be notified of any proposed additional measures and, if necessary, amendments will be made to the safety order.



Chris Hoidal  
Director, Western Region  
Pipeline and Hazardous Materials Safety Administration

3/6/12  
Date issued

Pipeline and Hazardous Materials Safety Admin., DOT

§ 190.239

(3) The reasonableness of the plans or procedures; and

(4) The extent to which the plans or procedures contribute to public safety.

(b) The amendment of an operator's plans or procedures prescribed in paragraph (a) of this section is in addition to, and may be used in conjunction with, the appropriate enforcement actions prescribed in this subpart.

[Amdt. 190-3, 56 FR 31090, July 9, 1991, as amended by Amdt. 190-6, 61 FR 18516, Apr. 26, 1996]

§ 190.239 Safety orders.

(a) When may PHMSA issue a safety order? If the Associate Administrator, OPS finds, after notice and an opportunity for hearing under paragraph (b) of this section, that a particular pipeline facility has a condition or conditions that pose a pipeline integrity risk to public safety, property, or the environment, the Associate Administrator may issue an order requiring the operator of the facility to take necessary corrective action. Such action may include physical inspection, testing, repair or other appropriate action to remedy the identified risk condition.

(b) How is an operator notified of the proposed issuance of a safety order and what are its response options? (1) *Notice of proposed safety order.* PHMSA will serve written notice of a proposed safety order under § 190.5 to an operator of the pipeline facility. The notice will allege the existence of a condition that poses a pipeline integrity risk to public safety, property, or the environment, and state the facts and circumstances that support issuing a safety order for the specified pipeline or portion thereof. The notice will also specify proposed testing, evaluations, integrity assessment, or other actions to be taken by the operator and may propose that the operator submit a work plan and schedule to address the conditions identified in the notice. The notice will also provide the operator with its response options, including procedures for requesting informal consultation and a hearing. An operator receiving a notice will have 30 days to respond to the PHMSA official who issued the notice.

(2) *Informal consultation.* Upon timely request by the operator, PHMSA will

provide an opportunity for informal consultation concerning the proposed safety order. Such informal consultation shall commence within 30 days, provided that PHMSA may extend this time by request or otherwise for good cause. Informal consultation provides an opportunity for the respondent to explain the circumstances associated with the risk condition(s) identified in the notice and, where appropriate, to present a proposal for corrective action, without prejudice to the operator's position in any subsequent hearing. If the respondent and Regional Director agree within 30 days of the informal consultation on a plan for the operator to address each risk condition, they may enter into a written consent agreement and the Associate Administrator may issue a consent order incorporating the terms of the agreement. If a consent agreement is reached, no further hearing will be provided in the matter and any pending hearing request will be considered withdrawn. If a consent agreement is not reached within 30 days of the informal consultation (or if informal consultation is not requested), the Associate Administrator may proceed under paragraphs (b)(3) through (5) of this section. If PHMSA subsequently determines that an operator has failed to comply with the terms of a consent order, PHMSA may obtain any administrative or judicial remedies available under 49 U.S.C. 60101 *et seq.* and this part. If a consent agreement is not reached, any admissions made by the operator during the informal consultation shall be excluded from the record in any subsequent hearing. Nothing in this paragraph (b) precludes PHMSA from terminating the informal consultation process if it has reason to believe that the operator is not engaging in good faith discussions or otherwise concludes that further consultation would not be productive or in the public interest.

(3) *Hearing.* An operator receiving a notice of proposed safety order may contest the notice, or any portion thereof, by filing a written request for a hearing within 30 days following receipt of the notice or within 10 days following the conclusion of informal consultation that did not result in a consent agreement, as applicable. In

the absence of a timely request for a hearing, the Associate Administrator may issue a safety order in the form of the proposed order in accordance with paragraphs (c) through (g) of this section.

(4) *Conduct of hearing.* An attorney from the Office of Chief Counsel, PHMSA, will serve as the Presiding Official in a hearing under this section. The hearing will be conducted informally, without strict adherence to formal rules of evidence in accordance with §190.211. The respondent may submit any relevant information or materials, call witnesses, and present arguments on the issue of whether a safety order should be issued to address the alleged presence of a condition that poses a pipeline integrity risk to public safety, property, or the environment.

(5) *Post-hearing action.* Following a hearing under this section, the Presiding Official will submit a recommendation to the Associate Administrator concerning issuance of a final safety order. Upon receipt of the recommendation, the Associate Administrator may proceed under paragraphs (c) through (g) of this section. If the Associate Administrator finds the facility to have a condition that poses a pipeline integrity risk to public safety, property, or the environment, the Associate Administrator will issue a safety order under this section. If the Associate Administrator does not find that the facility has such a condition, or concludes that a safety order is otherwise not warranted, the Associate Administrator will withdraw the notice and promptly notify the operator in writing by service as prescribed in §190.5. Nothing in this subsection precludes PHMSA and the operator from entering into a consent agreement at any time before a safety order is issued.

(6) *Termination of safety order.* Once all remedial actions set forth in the safety order and associated work plans are completed, as determined by PHMSA, the Associate Administrator will notify the operator that the safety order has been lifted. The Associate Administrator shall suspend or terminate a safety order whenever the Associate Administrator determines that the pipeline facility no longer has a

condition or conditions that pose a pipeline integrity risk to public safety, property, or the environment.

(c) How is the determination made that a pipeline facility has a condition that poses an integrity risk? The Associate Administrator, OPS may find a pipeline facility to have a condition that poses a pipeline integrity risk to public safety, property, or the environment under paragraph (a) of this section:

(1) If under the facts and circumstances the Associate Administrator determines the particular facility has such a condition; or

(2) If the pipeline facility or a component thereof has been constructed or operated with any equipment, material, or technique with a history of being susceptible to failure when used in pipeline service, unless the operator involved demonstrates that such equipment, material, or technique is not susceptible to failure given the manner it is being used for a particular facility.

(d) What factors must PHMSA consider in making a determination that a risk condition is present? In making a determination under paragraph (c) of this section, the Associate Administrator, OPS shall consider, if relevant:

(1) The characteristics of the pipe and other equipment used in the pipeline facility involved, including its age, manufacturer, physical properties (including its resistance to corrosion and deterioration), and the method of its manufacture, construction or assembly;

(2) The nature of the materials transported by such facility (including their corrosive and deteriorative qualities), the sequence in which such materials are transported, and the pressure required for such transportation;

(3) The characteristics of the geographical areas where the pipeline facility is located, in particular the climatic and geologic conditions (including soil characteristics) associated with such areas;

(4) For hazardous liquid pipelines, the proximity of the pipeline to an unusually sensitive area;

(5) The population density and growth patterns of the area in which the pipeline facility is located;



(6) Any relevant recommendation of the National Transportation Safety Board issued in connection with any investigation conducted by the Board;

(7) The likelihood that the condition will impair the serviceability of the pipeline;

(8) The likelihood that the condition will worsen over time; and

(9) The likelihood that the condition is present or could develop on other areas of the pipeline.

(e) What information will be included in a safety order? A safety order shall contain the following:

(1) A finding that the pipeline facility has a condition that poses a pipeline integrity risk to public safety, property, or the environment;

(2) The relevant facts which form the basis of that finding;

(3) The legal basis for the order;

(4) The nature and description of any particular corrective actions to be required of the operator; and

(5) The date(s) by which the required corrective actions must be taken or completed and, where appropriate, the duration of the order.

(f) Can PHMSA take other enforcement actions on the affected facilities? Nothing in this section precludes PHMSA from issuing a Notice of Probable Violation under §190.207 or taking other enforcement action if noncompliance is identified at the facilities that are the subject of a safety order proceeding.

[73 FR 16567, Mar. 28, 2008, as amended at 74 FR 2893, Jan. 16, 2009]

### Subpart C—Procedures for Adoption of Rules

SOURCE: Amdt. 190-8, 61 FR 50909, Sept. 27, 1996, unless otherwise noted.

#### § 190.301 Scope.

This subpart prescribes general rulemaking procedures for the issue, amendment, and repeal of Pipeline Safety Program regulations of the Pipeline and Hazardous Materials Safety Administration of the Department of Transportation.

[Amdt. 190-8, 61 FR 50909, Sept. 27, 1996, as amended at 70 FR 11137, Mar. 8, 2005]

#### § 190.303 Delegations.

For the purposes of this subpart, *Administrator* means the Administrator, Pipeline and Hazardous Materials Safety Administration, or his or her delegate.

[Amdt. 190-8, 61 FR 50909, Sept. 27, 1996, as amended at 70 FR 11137, Mar. 8, 2005]

#### § 190.305 Regulatory dockets.

(a) Information and data considered relevant by the Administrator relating to rulemaking actions, including notices of proposed rulemaking; comments received in response to notices; petitions for rulemaking and reconsideration; denials of petitions for rulemaking and reconsideration; records of additional rulemaking proceedings under §190.325; and final regulations are maintained by the Pipeline and Hazardous Materials Safety Administration at 1200 New Jersey Avenue, SE, Washington, D.C. 20590-0001.

(b) Once a public docket is established, docketed material may be accessed at <http://www.regulations.gov>. Public comments also may be submitted at <http://www.regulations.gov>. Comment submissions must identify the docket number. You may also examine public docket material at the offices of the Docket Operations Facility (M-30), U.S. Department of Transportation, West Building, First Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may obtain a copy during normal business hours, excluding Federal holidays, for a fee, with the exception of material which the Administrator of PHMSA determines should be withheld from public disclosure under 5 U.S.C. 552(b) or any other applicable statutory provision.

[Amdt. 190-8, 61 FR 50909, Sept. 27, 1996, as amended at 70 FR 11137 and 11139, Mar. 8, 2005; 73 FR 16566, Mar. 28, 2008; 73 FR 16568, Mar. 28, 2008]

#### § 190.307 Records.

Records of the Pipeline and Hazardous Materials Safety Administration relating to rulemaking proceedings are available for inspection as provided in section 552(b) of title 5, United States Code, and part 7 of the