



U.S. Department
Of Transportation
**Pipeline and
Hazardous Materials
Safety Administration**

820 Bear Tavern Road, Suite 103
West Trenton, NJ 08628
609.989.2171

WARNING LETTER

OVERNIGHT EXPRESS MAIL

August 22, 2011

Mr. David Chittick
Director, Pipeline Engineering
TransCanada Pipeline Limited
450 – 1st Street, S.W.
Calgary, Alberta, Canada T2P 5H1

CPF 1-2011-1014W

Dear Mr. Chittick:

On March 19, 2003, pursuant to 49 U.S.C. §60118(c) and 49 C.F.R. §190.341, Portland Natural Gas Transmission System (PNGTS), an affiliated pipeline of TransCanada Pipeline Limited, filed a special permit request with the Pipeline & Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), for a waiver from certain provisions of 49 C.F.R. § 192.611. PHMSA issues special permits to pipeline operators if the agency determines that a waiver of a particular regulation or standard is not inconsistent with pipeline safety. On March 4, 2004, PHMSA (at the time RSPA) issued an order granting PNGTS a special permit with certain conditions and limitations (Order). *See* PHMSA “RSPA-03-15733”.

On September 20, 2010, a PHMSA representative, pursuant to Chapter 601 of 49 United States Code, inspected the pipeline facilities and records of PNGTS to confirm compliance with the Order.

As a result of the inspection, it appears that PNGTS has committed a probable violation of the Order. As stated in 49 C.F.R. § 190.203(f), when information obtained from an inspection indicates that further OPS action is warranted, OPS may initiate one or more enforcement proceedings prescribed in §§ 190.207 through 190.235.

The item inspected and probable violation is:

1. Condition 5

Perform weekly aerial patrols and quarterly ground road crossing patrols over the entire 143.8 miles of 24-inch pipeline. The ground road crossing patrols must include leak surveys on all Class 3 portions of the pipeline using appropriate instrumented leak detection equipment;

PNGTS failed to perform weekly aerial patrols and quarterly ground road crossing patrols over the entire 143.8 miles of 24-inch pipeline, as required by Condition 5.

A PHMSA representative reviewed records in PNGTS's office in Windham, Maine. According to the PNGTS's *Aerial Patrol Reports*, aerial patrols were not consistently conducted at a weekly interval since the third quarter of 2004. The records contained annotations indicating that PNGTS cancelled scheduled patrols due to inclement weather conditions. Also, the record had no annotations that demonstrated an aerial patrol was "completed" or cancelled on several scheduled dates.¹ Additionally, PNGTS could not provide any records that showed an aerial patrol was rescheduled and completed after cancellation.

Albeit, PNGTS was unable to find qualified contractors that met TransCanada's requirements; therefore, PNGTS only scheduled and conducted biweekly aerial patrols since 2008. PNGTS personnel stated that Maine Aviation conducted aerial patrols with fixed-wing aircraft along with helicopter patrols conducted by TransCanada Aviation since 2006. PNGTS personnel further stated that Maine Aviation stopped providing aerial patrol services to PNGTS in July 2007 because it lacked qualified pilots for aerial patrol.

A PHMSA representative also reviewed PNGTS's *Ground Patrol Reports* that indicated PNGTS conducted annual rather than quarterly ground road crossing patrol from 2005 to 2007. Furthermore, the quarterly ground road crossing patrol must include leak surveys on all Class 3 locations. However, PNGTS did not conduct leak surveys on a quarterly basis as required.

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 advise you to correct the item identified in this letter. Failure to do so will result in PNGTS being subject to additional enforcement action.

¹ Aerial Patrol Reports 2004, 2005, 2006, 2007, 2008, 2009 and 2010

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No reply to this letter is required. If you choose to reply, please address your correspondence to Byron Coy, PE, Director, PHMSA Eastern Region, 820 Bear Tavern Road, Suite 103, West Trenton, NJ 08628 and refer to **CPF 1-2011-1014W**. 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).

Right to Modify, Suspend, or Revoke a Special Permit

Issuance of this enforcement action does not preclude PHMSA's authority to seek modification, suspension or revocation of the special permit issued under "RSPA-03-15733" at any time, as provided in 49 C.F.R. § 190.341(h)(1)(v). If such action is taken, PHMSA will provide PNGTS with the opportunity to show cause why the proposed action should not be taken.

Sincerely,

Bryon Coy, PE
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration