U.S. Department
of Transportation

**Pipeline and
Hazardous Materials
Safety Administration**

820 Bear Tavern Road, Suite 103
West Trenton, NJ 08628
609.771.7800

WARNING LETTER

OVERNIGHT EXPRESS DELIVERY

April 24, 2017

Kelly P. Kinnett, P.E.
Water and Gas Director
City of Danville
1040 Monument Street.
Danville, VA 24540

CPF 1-2017-0001W

Dear Mr. Kinnett:

On August 23, 2016, a representative of Virginia State Corporation Commission (VASCC) acting as agents for the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected City of Danville's (City) pipeline facilities in Danville, Virginia.

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

1. §192.613 Continuing surveillance.

(a) Each operator shall have a procedure for continuing surveillance of its facilities to determine and take appropriate action concerning changes in class location, failures, leakage history, corrosion, substantial changes in cathodic protection requirements, and other unusual operating and maintenance conditions.

During regular annual leakage survey activity, the City failed to observe/recognize/take corrective actions per §192.613(a) requirements for an unusual operating and maintenance condition that may affect the safe operation of its facilities.

Specifically, the City failed to notice that part of the original plastic service line to a restaurant

located at 2101 Riverside Drive in Danville, VA, was under the restaurant building. This service line encroachment was due to restaurant expansion construction completed in 1998. The service line was installed in 1986.

During the inspection, the VA SCC inspector observed leak survey activity with a City leak survey employee. During the leak survey, the VA SCC inspector discovered that part of the original plastic service line to a restaurant located at 2101 Riverside Drive, was under the restaurant building.

This area around the restaurant is leak surveyed every year by the City and this building encroachment on the plastic service line had not been observed/recognized by the City from 1998 until the VA SCC 2016 inspection.

City Continuing Surveillance procedure section 3.2 lists Leak Surveys as part of 12 interrelated City inspections that are an integral part of the ongoing continuing surveillance program, which includes recognizing and responding to unsafe conditions during daily activities.

City leakage survey records for 2014 and 2015 for 2101 Riverside Drive did not note any encroachment for the service line at 2101 Riverside Drive.

After the inspection, the City relocated the service, discussed the finding with leak survey personnel, put a process in place to identify this type of encroachment issue during the construction permitting stage, and notified City utility locators to be observant of construction when performing utility locates.

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed $205,638 per violation per day the violation persists up to a maximum of $2,056,380 for a related series of violations. For violation occurring between January 4, 2012 to August 1, 2016, the maximum penalty may not exceed $200,000 per violation per day, with a maximum penalty not to exceed $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 the City of Danville being subject to additional enforcement action.

Please submit all correspondence in this matter to Robert Burrough, Acting Director, PHMSA Eastern Region, 820 Bear Tavern Road, Suite 103, West Trenton, NJ 08628. Please refer to **CPF 1-2017-0001W** on each document you submit, and whenever possible provide a signed PDF copy in electronic format. Smaller files may be emailed to robert.burrough@dot.gov. Larger files should be sent on a CD accompanied by the original paper copy to the Eastern Region Office.

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,

Robert Burrough
Acting Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration