



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

233 Peachtree Street Ste. 600
Atlanta, GA 30303

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

October 24, 2010

Ms. Aneice R. Liddell
Mayor,
City of Moss Point
4412 Denny St.
Moss Point, MS 39563

CPF 2-2010-0001S

Dear Mayor Liddell:

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 Moss Point and Escatawpa distribution systems 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 (404) 832-1160.

Sincerely,

Wayne T. Lemoi
Director, Southern Region
Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

Enclosure: Notice of Proposed Safety Order, Exhibit A: Correction Status and copy of 49 CFR §190.239

**DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
SOUTHERN REGION
ATLANTA, GA 30303**

In the Matter of)	
The city of Moss Point, MS)	
Respondent)	
)	CPF No. 2-2010-0001S

NOTICE OF PROPOSED SAFETY ORDER

Background and Purpose

Pursuant to Chapter 601 of title 49, United States Code, the Pipeline and Hazardous Materials Safety Administration (PHMSA) and the Pipeline Safety Division of the Mississippi Public Service Commission (MSPSC), have initiated an on-site investigation and information review of the safety of your Moss Point and Escatawpa distribution systems in Mississippi.

As a result of the on-site investigation and information review, 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 issues this Notice of Proposed Safety Order, notifying you of the preliminary findings of the investigation, and proposing that you take measures to ensure that the public, property, and the environment are protected from the potential risk.

Preliminary Findings

- The city of Moss Point Natural Gas System consists of two systems; the Moss Point system and the Escatawpa system. The systems are contained within the State of Mississippi. The systems are natural gas distribution systems. Moss Point files one annual report each year covering both systems. The systems consist of steel and polyethylene plastic main and service pipelines. The mains range from 15 miles of 2-inch to 4 miles of 8 -12-inch with 90 miles of pipe of unknown diameter.

- Since 2007, the MSPSC has conducted several inspections and issued non-compliance notifications to the operator. The MSPSC sent non-compliance letters to Moss Point on August 16, 2007, March 25, 2008, December 10, 2008, July 15, 2009, and February 10, 2010. Some corrective actions remain uncompleted. See Exhibit A.
- Based upon the nature of the conditions found in past inspections, the conditions that exist on your Moss Point and Escatawpa distribution systems may continue to pose a pipeline integrity risk unless the corrective actions are completed.
- The probability is high that the long term serviceability of the distribution systems could be adversely impacted if the city of Moss Point does not take the corrective actions that have been communicated by the MSPSC in previous inspections.
- The systems distribute natural gas to residences and commercial businesses. The operating pressures are typical of natural gas distribution systems with pressures ranging up to 90 pounds per square inch gauge (psig).
- According to the 2000 Census, Moss Point had a population of 17,653 people, 6,714 households, and 5,228 families residing in the city with a density of 634 people per square mile.
- Moss Point, MS is a community in Jackson County in the Gulf Coast Region of Southern Mississippi. Moss Point adjoins inland waterways and coastal marsh. Moss Point borders Pascagoula, MS, on the north side of Pascagoula. The city was on the east side of Hurricane Katrina which caused flooding and extensive damage to the city.
- Of the 109 miles of mains in the system, steel mains comprise 26 miles and polyethylene plastic totals 83 miles. Of the 2347 service lines, 30 are steel and 2317 are polyethylene plastic. Of the 109 miles of main, 34 miles were constructed in the years 1990-1999 and 60 miles were constructed in the years 2000-2009 with 15 miles unknown when construction occurred.

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 and the pressure required for transporting such product, the characteristics of the geographical 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 that official that you intend to comply with the terms of the Notice as proposed, or you may request that an informal consultation be scheduled (you will also have the opportunity to request an administrative hearing before a safety order is issued). 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 (PHMSA would then issue an administrative consent order incorporating the terms of the agreement). If a consent 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), 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).

In your correspondence on this matter, please refer to CPF **2-2010-0001S** 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 to The City of Moss Point a safety order incorporating the following remedial requirements with respect to the affected pipeline:

1. The city of Moss Point must immediately change its leak investigation procedures to only allow gas operation personnel to respond to leak notifications from customers and the public. Moss Point must not allow non-gas operation personnel (water department personnel) to respond to leak calls.
2. The city of Moss Point must expedite its plans to leak survey the business district with commencement beginning no later than five (5) days of receipt of this Notice.
3. The city of Moss Point must expand the scope of the business district leak survey to include the entire natural gas systems (Moss Point and Escatawpa). The leak survey of the entire system must start no later than December 13, 2010.
4. The city of Moss Point must repair all grade 1 leaks identified by the surveys in items 2 and 3 by repair methods meeting Part 192 and industry standards for gas distribution pipelines.
5. The section of plastic main repaired with a band clamp designed for water pipe repairs discovered by the MSPSC on October 8, 2010, must be repaired immediately by repair methods meeting Part 192 and industry standards for gas distribution pipelines. Moss Point must identify other locations where the improper repair method (band clamp designed for water pipe) has been used on other leaks on plastic mains. The locations must be repaired by repair methods meeting Part 192 and industry standards for gas distribution pipelines.
6. Within sixty (60) days after a safety order is issued, develop and submit to the Director for approval a written remedial work plan that includes corrective measures. The work plan must include:
 - (A) The correction of all outstanding violations identified by the MSPSC and set out in Exhibit A. Additional detail regarding these violations and the necessary compliance actions to correct them may be obtained by contacting Mr. Mark McCarver, Director Pipeline Safety Division, MSPSC at (601) 961-5475.
 - (B) A proposed schedule for completion of the actions required by paragraphs (A) of this Item.

7. Revise the remedial work plan as necessary to incorporate new information obtained during the evaluations and associated remedial activities. Submit any such plan revisions to Wayne T. Lemoi, Director, Office of Pipeline Safety, PHMSA Southern Region and to Mark McCarver, Director, Pipeline Safety Division, MSPSC for prior approval. The Directors may approve plan elements incrementally. The remedial work plan shall become incorporated into the safety order.
8. Implement the work plan as it is approved by Wayne T. Lemoi, Director, Office of Pipeline Safety, PHMSA Southern Region including any revisions to the plan.
9. Submit quarterly reports to both Directors 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.
10. An extension of time may be grant by Wayne T. Lemoi, Director, Office of Pipeline Safety, PHMSA Southern Region for compliance with any of the terms of the safety order upon a written request timely submitted demonstrating good cause for an extension.
11. Respondent may appeal any decision of Wayne T. Lemoi, Director, Office of Pipeline Safety, PHMSA Southern Region to the Associate Administrator for Pipeline Safety. Decisions of the Associate Administrator shall be final.

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 and implementation of the work plan, PHMSA and MPSC 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 to the work plan or safety order.


Wayne T. Lemoi
Director, Southern Region
Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

OCT 24, 2010
Date issued

Exhibit A

Non Compliance Letter Date	Code Section Cited	Corrective Action Completed?
8/16/2007	199.5 DOT Procedures	Yes
	199.101 Anti-drug plan	Yes
	199.113 Employee assistance program	Yes
	199.115 Contractor employees	Yes
3/25/2008	192.465 External corrosion control: Monitoring	No
	192.463 External corrosion control: Cathodic protection	No
12/10/2008	192.727 Abandonment or deactivation of facilities.	No
	192.479 Atmospheric Corrosion Control	No
	192.517 Records	No
	192.723(b)(1) Distribution systems: Leakage surveys.	No
	192.743 (c) Pressure limiting and regulating stations: Capacity of relief devices	No
	192.459 Examination of Buried Pipe When Exposed	No
	192.481 Atmospheric Corrosion Control, Monitoring	No
7/15/2009	191.11 Annual Report	Yes
	192.16(b) Customer Notification	Yes
	192.723(b)(1) Distribution systems: Leakage surveys.	No
	192.747(a) Valve maintenance: Distribution systems.	No
2/10/2010	192.513(c) Test requirements for Plastic Pipelines	No
	192.741 Pressure limiting and regulating stations: Telemetering or recording gauges.	No

Title 49: Transportation

Part 190 - Pipeline Safety Programs and Rulemaking Procedures

§ 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.