



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

233 Peachtree Street Ste. 600
Atlanta, GA 30303

WARNING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

July 18, 2012

Mr. Jeffrey Swartz
Vice President, Power Generation Operations Florida
Progress Energy
Post Office Box 14042
Saint Petersburg, Florida 33733-4042

CPF 2-2012-6015W

Dear Mr. Swartz:

From May 21-23, 2012, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) inspected Progress Energy's Bartow/Anclote Pipeline Public Awareness Program in Florida pursuant to Chapter 601 of 49 United States Code.

As a result of the inspection, it appears that Progress Energy has committed a probable violation of the Pipeline Safety Regulations, in Title 49 of the Code of Federal Regulations. The item inspected and the probable violation is as follows:

1. §195.440 Public awareness.

... (i) The operator's program documentation and evaluation results must be available for periodic review by appropriate regulatory agencies;

Progress Energy failed to maintain the documentation required by *Section 11.0, Documentation and Record-Keeping*, of its Bartow/Anclote Pipeline Public Awareness Program. Specifically, Progress Energy did not have (1) copies of its annual mail-outs to the affected public and excavators in 2009 and 2011, (2) the results of its 2010 *Effectiveness of Program Implementation* evaluation; and, (3) the results of its annual *Self-Assessment of Implementation* evaluations for the five years prior to 2012.

It should be noted that the Bartow/Anclote Pipeline has been purged, is filled with nitrogen, and has been disconnected from the fuel oil tanks at Bartow.

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 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 identified in this letter. Failure to do so will result in Progress Energy 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 2-2012-6015W**. 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 cursive script, appearing to read "Wayne T. Lemoi".

Wayne T. Lemoi
Director, Office of Pipeline Safety
PHMSA Southern Region