

**NOTICE OF PROBABLE VIOLATION  
and  
PROPOSED CIVIL PENALTY**

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

November 23, 2018

Mr. Dan Krueger  
President  
Bluewater Gas Storage, LLC  
231 W. Michigan St.  
Milwaukee, WI 53203

**CPF 3-2018-1005**

Dear Mr. Krueger:

From May 7-14, 2018, a representative of the Michigan Public Service Commission (MIPSC) acting as an interstate agent for the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code, inspected Bluewater Gas Storage LLC's (BGS) control room facilities in Columbus, MI.

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

**1. §192.631 Control room management.**

**(d) Fatigue mitigation. Each operator must implement the following methods to reduce the risk associated with controller fatigue that could inhibit a controller's ability to carry out the roles and responsibilities the operator has defined:**

**(4) Establish a maximum limit on controller hours-of-service, which may provide**

**for an emergency deviation from the maximum limit if necessary for the safe operation of a pipeline facility.**

BGS's scheduling for the controllers is based on having six (6) controllers. BGS currently has five (5) trained controllers for their control center when a controller resigned late last year. While BGS hired a replacement controller, at the time of the inspection, the controller had not been trained to operate the system on his own yet. Therefore, BGS was short one trained controller from at least January 2018 through the dates of inspection. As a result, BGS has been utilizing the maximum hours of service deviation to compensate for being short staffed on trained controllers. Such deviations should be occasional and intentional in times of need during an emergency. BGS has indicated that they plan to hire extra controllers to compensate for unplanned leaves and resignation.

**2. §192.631 Control room management.**

**(e) Alarm management. Each operator using a SCADA system must have a written alarm management plan to provide for effective controller response to alarms. An operator's plan must include provisions to:**

**(4) Review the alarm management plan required by this paragraph at least once each calendar year, but at intervals not exceeding 15 months, to determine the effectiveness of the plan;**

BGS did not review the Alarm Management Plan (AMP) for 2017. BGS did have records of the overall plan reviews from 2015 and 2016. The last annual review was dated October 19, 2016. However, BGS had no records of the 2017 AMP review. BGS subsequently completed a review on August 13, 2018.

**3. §192.631 Control room management.**

**(h) Training. Each operator must establish a controller training program and review the training program content to identify potential improvements at least once each calendar year, but at intervals not to exceed 15 months. An operator's program must provide for training each controller to carry out the roles and responsibilities defined by the operator.**

BGS did not establish and review the controller training program to identify potential improvements at least once each calendar year at intervals not to exceed 15 months. BGS did not conduct a review of the training program for 2017.

BGS acquired the Bluewater Gas System on June 30, 2017. However, there were no records to show that the previous owner conducted the training program review. As of

the date of this inspection, BGS still had not conducted the review. Additionally, BGS personnel indicated that no review was done.

4. **§192.631 Control room management.**

**(j) Compliance and deviations. An operator must maintain for review during inspection:**

**(1) Records that demonstrate compliance with the requirements of this section;**

BGS did not have documentation evidencing the 2016 internal communications plan required by 192.631(c)(3) was tested. BGS indicated that it conducted the test, but could not find the record at the time of the inspection.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$209,002 per violation per day the violation persists, up to a maximum of \$2,090,022 for a related series of violations. For violations occurring prior to November 2, 2015, 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. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violations and has recommended that you be preliminarily assessed a civil penalty of \$38,000 as follows:

<u>Item number</u>	<u>PENALTY</u>
2	\$19,000
3	\$19,000

Warning Items

With respect to items one (1) and four (4), 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 promptly correct these items. Failure to do so may result in additional enforcement action.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. All material submit in response to this enforcement action may be 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).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in 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 Final Order. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from the receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 3-2018-1005** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Allan C. Beshore, PE  
Director, Central Region, OPS  
Pipeline and Hazardous Materials Safety Administration

Enclosure: *Response Options for Pipeline Operators in Enforcement Proceedings*