



U.S. Department  
of Transportation

Pipeline and Hazardous Materials  
Safety Administration

1200 New Jersey Ave., SE  
Washington, DC 20590

**DEC 19 2011**

Mr. John Burge  
President  
Mardi Gras Pipeline, LLC  
700 Covington Center, Suite 2  
Covington, LA 70433

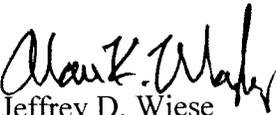
**Re: CPF No. 4-2009-1007**

Dear Mr. Burge:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, withdraws an allegation of violation, and assesses a reduced civil penalty of \$35,000. It further withdraws the compliance order proposed in the Notice due to Mardi Gras' divestiture of the pipeline facilities that are the subject of this proceeding. When the civil penalty has been paid, this enforcement action will be closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

*for.*   
Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

Enclosure

cc: Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, Pipeline Safety  
Mr. Rod M. Seeley, Director, PHMSA Southwest Region  
Mr. Paul Biancardi, Esq., 5818 Beaver Falls Dr., Kingwood, TX 77345, counsel for  
Respondent  
Mr. Randy Ziebarth, Vice President Operations, Torch Energy Services, Inc.,  
1331 Lamar Street, Suite 1450, Houston, Texas 77010

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED [71791000164202935579]**

**U.S. DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION  
OFFICE OF PIPELINE SAFETY  
WASHINGTON, D.C. 20590**

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In the Matter of )

Mardi Gras Pipeline, LLC, )

Respondent. )  
\_\_\_\_\_

CPF No. 4-2009-1007

**FINAL ORDER**

On April 16-20, 2007, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the integrity management program procedures and records of Mardi Gras Pipeline, LLC (Mardi Gras or Respondent), in Covington, Louisiana. At the time of the inspection, Mardi Gras operated a natural gas pipeline system consisting of approximately 22.2 miles of 8- and 12-inch diameter pipeline in Louisiana and Mississippi. The pipeline was subsequently transferred to, and is now operated by, Torch Energy Services, Inc.

As a result of the inspection, the Director, Southwest Region, PHMSA (Director), issued to Respondent, by letter dated March 4, 2009, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Mardi Gras had committed various violations of 49 C.F.R. Part 192 and proposed assessing a civil penalty of \$63,800 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations.

After requesting and receiving an extension of time, Mardi Gras responded to the Notice by letter dated May 8, 2009, as supplemented by letter dated October 14, 2009 (collectively, Response). Mardi Gras contested the allegations in the Notice and requested a hearing. An informal hearing was subsequently held on February 10, 2010, in Houston, Texas, with an attorney from the Office of Chief Counsel, PHMSA, presiding. At the hearing, Respondent was represented by counsel. After the hearing, Mardi Gras provided additional materials for the record on March 12 and 21, 2010, as well as a post-hearing closing argument dated March 30, 2010 (Closing).

**FINDINGS OF VIOLATION**

The Notice alleged that Respondent violated 49 C.F.R. Part 192, as follows:

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 192.905(a), which states:

**§ 192.905 How does an operator identify a high consequence area?**

(a) *General.* To determine which segments of an operator's transmission pipeline system are covered by this subpart, an operator must identify the high consequence areas. An operator must use method (1) or (2) from the definition in §192.903 to identify a high consequence area. An operator may apply one method to its entire pipeline system, or an operator may apply one method to individual portions of the pipeline system. An operator must describe in its integrity management program which method it is applying to each portion of the operator's pipeline system. The description must include the potential impact radius when utilized to establish a high consequence area. (*See* appendix E.I. for guidance on identifying high consequence areas.)

The Notice alleged that Respondent violated 49 C.F.R. § 192.905(a) by failing to properly identify those segments of its gas transmission pipeline system that constituted High Consequence Areas (HCAs) and were therefore subject to PHMSA's integrity management regulations.<sup>1</sup> Specifically, the Notice alleged that Respondent elected to use a selection method (i.e., Method 1) that utilized class locations to identify HCAs, but that the company failed to make comprehensive or complete determinations of these areas, insofar as the company had no documentation for the beginning and end points of the Class 3 areas along the pipeline.

In its Response and at the hearing, Mardi Gras acknowledged that its records did not reflect accurate beginning and end points of the Class 3 areas along the pipeline, but argued that it should not be found in violation because its methodology served to capture Class 2, as well as Class 3, areas and did not omit any Class 3 areas.

Respondent's argument is not persuasive. The regulations contain a very specific definition of what constitutes an HCA. If an operator elects to use Method 1, the regulation requires that the Class 3 areas be properly identified. A lack of precision in establishing the beginning and end points of these areas is not consistent with the purpose and intent of the regulation and may improperly identify the higher-risk portions of an operator's system. Accordingly, after considering all of the evidence and the legal issues presented, I find that Respondent violated 49 C.F.R. § 192.905(a) by failing to properly identify HCAs along its pipeline that are subject to integrity management.

**Item 2:** The Notice alleged that Respondent violated 49 C.F.R. § 192.905(b), which states:

**§ 192.905 How does an operator identify a high consequence area?**

(a) . . .

(b)(1) *Identified sites.* An operator must identify an identified site, for purposes of this subpart, from information the operator has obtained from routine operation and maintenance activities and from public officials with safety or emergency response or planning responsibilities who indicate to the operator that they know of locations that meet the identified site criteria. These public officials could include officials on a local emergency

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<sup>1</sup> Operators are responsible for identifying higher-risk areas along their pipelines that qualify as HCAs, using one of two methods described in the regulations. *See*, 49 C.F.R. § 192.903.

planning commission or relevant Native American tribal officials.

(2) If a public official with safety or emergency response or planning responsibilities informs an operator that it does not have the information to identify an identified site, the operator must use one of the following sources, as appropriate, to identify these sites.

(i) Visible marking (*e.g.*, a sign); or

(ii) The site is licensed or registered by a Federal, State, or local government agency; or

(iii) The site is on a list (including a list on an internet web site) or map maintained by or available from a Federal, State, or local government agency and available to the general public.

The Notice alleged that Mardi Gras violated 49 C.F.R. § 192.905(b) by failing to use public officials as a resource in the identification of areas that would qualify as “identified sites” within the potential impact radius<sup>2</sup> along its pipeline, including a prison and buildings in the Angie, Louisiana, area. In its Response and at the hearing, Mardi Gras described its general process for identifying HCAs, but did not present convincing evidence that the company had used a documented systematic methodology for identifying “identified sites” with input from public officials. Accordingly, after considering all of the evidence and the legal issues presented, I find that Respondent violated 49 C.F.R. § 192.905(b) by failing to use public officials as a resource to identify identified sites.

**Item 3:** The Notice alleged that Respondent violated 49 C.F.R. § 192.945(a), which states:

**§ 192.945 What methods must an operator use to measure program effectiveness?**

(a) *General.* An operator must include in its integrity management program methods to measure, on a semi-annual basis, whether the program is effective in assessing and evaluating the integrity of each covered pipeline segment and in protecting the high consequence areas. These measures must include the four overall performance measures specified in ASME/ANSI B31.8S (incorporated by reference, *see* § 192.7), section 9.4, and the specific measures for each identified threat specified in ASME/ANSI B31.8S, Appendix A. An operator must submit the four overall performance measures, by electronic or other means, on a semi-annual frequency to OPS in accordance with § 192.951. An operator must submit its first report on overall performance measures by August 31, 2004. Thereafter, the performance measures must be complete through June 30 and December 31 of each year and must be submitted within 2 months after those dates.

The Notice alleged that Mardi Gras violated 49 C.F.R. § 192.945(a) by failing to submit integrity management program performance records to OPS on a semi-annual basis, beginning on December 31, 2005. Specifically, the Notice alleged that the company had failed to submit timely reports for the performance measures that were due within two months after 12/31/05,

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<sup>2</sup> The term “potential impact radius” is defined as the radius of a circle within which the potential failure of a pipeline could have significant impact on people or property. *See* 49 C.F.R. § 192.903.

6/30/06, and 12/31/06. In its Response and at the hearing, Mardi Gras acknowledged that its program performance records had been submitted late and that it had not filed any prior to March 22, 2006. To the extent Respondent provided information and explanations that may be relevant to the proposed penalty amount, those arguments will be considered in the Assessment of Penalty section below.

Accordingly, after considering all of the evidence and the legal issues presented, I find that Respondent violated 49 C.F.R. § 192.945(a) by failing to submit integrity management program performance records to OPS on a semi-annual frequency, beginning with the reporting period ending on December 31, 2005.

**Item 4:** The Notice alleged that Respondent violated 49 C.F.R. § 192.911(m), which states:

**§ 192.911 What are the elements of an integrity management program?**

An operator's initial integrity management program begins with a framework (*see* § 192.907) and evolves into a more detailed and comprehensive integrity management program, as information is gained and incorporated into the program. An operator must make continual improvements to its program. The initial program framework and subsequent program must, at minimum, contain the following elements. (When indicated, refer to ASME/ANSI B31.8S (incorporated by reference, *see* § 192.7) for more detailed information on the listed element.)

(a) . . .

(m) A communication plan that includes the elements of ASME/ANSI B31.8S, section 10, and that includes procedures for addressing safety concerns raised by—

(1) OPS; and

(2) A State or local pipeline safety authority when a covered segment is located in a State where OPS has an interstate agent agreement.

The Notice alleged that Mardi Gras violated 49 C.F.R. § 192.911(m) by failing to have an integrity management program containing a communication plan that included the elements of section 10 of the ASME/ANSI Standard B31.8S (Standard). Specifically, the Notice alleged that Mardi Gras had been unable to provide the OPS inspection team with a copy of its communication plan (or “public awareness plan”), nor was it able to present evidence that such a plan had been developed. Under the Standard, an operator must include in its integrity management plan a communication plan to keep appropriate company personnel, jurisdictional authorities, and the public informed about its integrity management efforts.<sup>3</sup>

In its Response and at the hearing, Mardi Gras acknowledged that it had not developed and implemented a full communication plan until March 2008, but argued that it had had sufficient plans involving communications in place at the time of the inspection. OPS countered, and I

<sup>3</sup> Under 49 C.F.R. § 192.616, all natural gas pipeline operators are required to develop and implement a written continuing public education program, or “public awareness” program. The requirement to develop an internal and external “communications plan” under § 192.911(m) goes beyond the normal public awareness plan to include the communication of a company’s integrity management program.

agree, that to the extent Respondent had any plans involving communications in place at the time of the inspection, those materials merely parroted the regulatory requirements and did not constitute a bona fide communication plan meeting the requirements of the Standard.

Accordingly, after considering all of the evidence and the legal issues presented, I find that Respondent violated 49 C.F.R. § 192.911(m) by failing to have an integrity management program containing a communication plan that included the elements of the Standard.

**Item 5:** The Notice alleged that Respondent violated 49 C.F.R. § 192.915, which states:

**§ 192.915 What knowledge and training must personnel have to carry out an integrity management program?**

(a) *Supervisory personnel.* The integrity management program must provide that each supervisor whose responsibilities relate to the integrity management program possesses and maintains a thorough knowledge of the integrity management program and of the elements for which the supervisor is responsible. The program must provide that any person who qualifies as a supervisor for the integrity management program has appropriate training or experience in the area for which the person is responsible.

(b) *Persons who carry out assessments and evaluate assessment results.* The integrity management program must provide criteria for the qualification of any person—

(1) Who conducts an integrity assessment allowed under this subpart; or

(2) Who reviews and analyzes the results from an integrity assessment and evaluation; or

(3) Who makes decisions on actions to be taken based on these assessments.

(c) *Persons responsible for preventive and mitigative measures.* The integrity management program must provide criteria for the qualification of any person—

(1) Who implements preventive and mitigative measures to carry out this subpart, including the marking and locating of buried structures; or

(2) Who directly supervises excavation work carried out in conjunction with an integrity assessment.

The Notice alleged that Mardi Gras violated 49 C.F.R. § 192.915 by failing to have an integrity management program which ensured that company personnel had the requisite knowledge and training to carry out the program. Specifically, the Notice alleged that the company's program failed to provide that Respondent's supervisory personnel, persons who carried out integrity assessments, and persons responsible for developing preventive and mitigative measures were properly trained and experienced to carry out their responsibilities. The Notice further alleged that Mardi Gras had been unable to provide the OPS inspection team with the criteria the company used to qualify personnel for such duties.

In its Response, at the hearing, and in its post-hearing materials, Mardi Gras explained that a contractor, Stockton Engineering Services, Inc., had provided training to its various personnel,

including Respondent's supervisor, and that such supervisor had met the training requirements of Inland Paperboard and Packaging, the former operator of the pipeline. Respondent also cited Section 12.02 of its procedures, which stated that only qualified personnel would be used to perform certain task. Respondent's procedures, however, failed to include any criteria by which the qualifications of its integrity management personnel could be evaluated to determine whether they were in fact properly trained and qualified.

Accordingly, after considering all of the evidence and the legal issues presented, I find that Respondent violated 49 C.F.R. § 192.915 by failing to have an integrity management program which provided that its personnel who were responsible for carrying out the program had the requisite knowledge and training to perform their duties.

**Item 6:** The Notice alleged that Respondent violated 49 C.F.R. § 192.805(b), which states:

**§ 192.805 Qualification program.**

Each operator shall have and follow a written qualification program.

The program shall include provisions to:

- (a) Identify covered tasks;
- (b) Ensure through evaluation that individuals performing covered tasks are qualified; . . . .

The Notice alleged that Mardi Gras violated 49 C.F.R. § 192.805(b) by failing to have and follow a written qualification program that ensured through evaluation that individuals performing covered tasks were qualified. Specifically, the Notice alleged that two individuals performing certain covered tasks, other than cathodic protection surveys and odorization of gas, had not been qualified through evaluation.

At the hearing and in its post-hearing materials, Mardi Gras provided records demonstrating that the two specified individuals had indeed been properly qualified through evaluation to perform the covered tasks in question. Accordingly, after considering all of the evidence, I find that no violation occurred and hereby order that Item 6 be withdrawn.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

**ASSESSMENT OF PENALTY**

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$100,000 per violation for each day of the violation, up to a maximum of \$1,000,000 for any related series of violations. In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; the Respondent's ability to pay the penalty and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety

regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$63,800 for the violations cited above.

Mardi Gras offered several general arguments regarding the proposed penalties and several specific arguments as to why the proposed penalties for each item should be reduced or eliminated. The company presented three general arguments as to why the proposed penalties were excessive. First, it contended that PHMSA had been remiss in waiting 23 months to prosecute an NOPV against the company, that such delay had prejudiced the Respondent in defending itself against the allegations, and that the government's inaction constituted laches, an inexcusable delay in presenting a legal claim.<sup>4</sup> Second, Respondent argued that both the evidence in the record and PHMSA's delay in bringing the case "conclusively demonstrate[d] that the risk for any one of these alleged violations was extremely low or non-existent."<sup>5</sup> Third, it argued that because Mardi Gras had divested itself of the subject pipeline assets subsequent to the inspection and no longer operated the line, a civil penalty would not serve any of PHMSA's safety or deterrence goals and would run counter to the "requirements" of the Small Business Administration.<sup>6</sup> Finally, the company argued that in proposing the penalties, PHMSA had failed to give Mardi Gras credit for its good-faith efforts to achieve compliance, especially considering the fact that there had been some ambiguity about whether the line was subject to PHMSA jurisdiction.<sup>7</sup>

I find all of these arguments unpersuasive. First, while the 23-month period between the time of the inspection and the time of the Notice may have been longer than ideal and while Mardi Gras had apparently divested itself of the pipeline prior to receiving the Notice, I do not find that the delay was either excessive or that it precludes PHMSA from bringing the NOPV or assessing an appropriate penalty.<sup>8</sup> Under the applicable statute of limitations (28 U.S.C. § 2462), OPS actually had up to five years from the time the violations occurred to issue the Notice and commence its case. Moreover, Respondent did not articulate any particular prejudicial impact in this case.

Second, I reject the company's contention that the gravity of the violations was minimal and that the penalties should therefore be lower. It is critical that operators of higher-risk pipelines clearly identify the boundaries of those areas, that they file timely reports, and that they have proper plans in place to reduce the likelihood and consequences of accidents in HCAs. In that sense, I do not consider any of these violations to be *de minimis*. On the other hand, the penalties proposed for the violations in this particular case do, in fact, reflect the minimum penalties assessed by PHMSA for integrity management violations, since the total number of miles in Mardi Gras' system that could affect HCAs is relatively low.

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<sup>4</sup> *Closing*, at 1-2 and 15.

<sup>5</sup> *Id.* at 12-13.

<sup>6</sup> *Id.* at 2.

<sup>7</sup> *Id.* at 14.

<sup>8</sup> To the extent that Respondent asserts an affirmative defense of *laches*, I find the doctrine inapplicable in this proceeding and the cases cited by Respondent inapposite. Laches does not apply to U.S. governmental functions, nor to its officers or agencies. *Thompson v. U.S.*, 312 F2d 516 (10<sup>th</sup> Cir. 1962).

Third, while Respondent did divest itself of the pipeline in question and is no longer the operator, PHMSA may still assess civil penalties against any “person” who has committed a violation of the regulations.<sup>9</sup> In no way is this authority limited to the current operator. Moreover, if PHMSA were to adopt a policy of dropping enforcement cases under such circumstances, it could give pipeline operators an incentive to divest when compliance issues are discovered. The proposed penalties are not excessively punitive, nor do they violate the Small Business Regulatory Enforcement Fairness Act of 1996, the statute cited by Respondent.<sup>10</sup> PHMSA does indeed consider an operator’s ability to pay and whether a proposed penalty would affect a respondent’s ability to continue in business.<sup>11</sup> In this case, however, Mardi Gras has not presented any evidence that either one of these penalty criteria applies.

Finally, PHMSA did take into account the actions taken by Respondent prior to the inspection. While there may have been uncertainty on Respondent’s part as to whether the state pipeline safety authority or PHMSA were the primary regulator of the line, there was no uncertainty about the fact that the pipeline was transporting gas and was therefore subject to the code requirements. Respondent objected to statements in the Violation Report that Mardi Gras was “fully culpable” for the violations cited, but this statement only meant that Mardi Gras was the entity solely responsible for compliance with the regulations,<sup>12</sup> not that there was some heightened level of culpability or that the company had not made some sort of efforts to achieve compliance.

**Item 3:** The Notice proposed a civil penalty of \$10,000 for Respondent’s violation of 49 C.F.R. § 192.945(a), for failing to submit integrity management program performance records to OPS on a semi-annual basis, beginning with the period ending on December 31, 2005. As noted above, Mardi Gras acknowledged that it had not been timely in filing these reports, but asserted that Hurricane Katrina had hit its facilities within weeks after the company took over operation of the line and that it was “hardly reasonable to expect timely reports when so much work was involved with the cleanup....”<sup>13</sup> I disagree. It is the responsibility of pipeline operators at all times to be adequately prepared for emergencies, both natural and man-made, and to continue meeting the myriad business, maintenance and regulatory demands of operating a natural gas pipeline. Respondent has presented no evidence or arguments that would warrant a reduction in the civil penalty amount proposed for this Item. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$10,000 for violation of 49 C.F.R. § 192.945(a).

**Item 4:** The Notice proposed a civil penalty of \$10,000 for Respondent’s violation of 49 C.F.R. § 192.911(m), for failing to have an integrity management program containing a communication plan that included the elements of the Standard. With respect to culpability, pipeline operators are well aware of their obligation to maintain communications plans that keep both internal and external stakeholders apprised of the company’s integrity management efforts.

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<sup>9</sup> 49 C.F.R. § 190.221.

<sup>10</sup> PL 104-121 – March 29, 1996.

<sup>11</sup> 49 C.F.R. § 190.225.

<sup>12</sup> Pipeline Safety Violation Report, CPF No. 4-2009-1007 (March 4, 2009), at pages 7, 9, and 11.

<sup>13</sup> *Closing*, at 5.

With respect to the gravity of the violation, it is critical that persons potentially affected by a pipeline emergency have an appropriate and accurate understanding of pipeline operations in their area in order to promptly respond and ensure public safety. Respondent has presented no evidence or arguments that would warrant a reduction in the civil penalty amount proposed for this Item. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$10,000 for violation of 49 C.F.R. § 192.911(m).

**Item 5:** The Notice proposed a civil penalty of \$15,000 for Respondent's violation of 49 C.F.R. § 192.915, for failing to have an integrity management program providing that company personnel have the requisite knowledge and training to carry out the program. With respect to culpability, pipeline operators are well aware of their obligation to have fully qualified personnel to implement their integrity management programs. With respect to the gravity of the violation, it is essential that operators have specific criteria by which to evaluate whether employees possess the requisite knowledge and qualifications to carry out their duties; otherwise, there is no way of verifying that personnel are actually qualified.

Respondent has presented no evidence or arguments that would warrant a reduction in the civil penalty amount propose for this Item in the Notice. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$15,000 for violation of 49 C.F.R. § 192.915.

**Item 6:** The Notice proposed a civil penalty of \$28,800 for Respondent's alleged violation of 49 C.F.R. § 192.805(b), for failing to have an integrity management program that ensured through evaluation that individuals performing covered tasks were qualified. As indicated above, Item 6 has been withdrawn. Therefore, no penalty will be assessed for this Item.

In summary, I assess Respondent a total civil penalty of **\$35,000** for its violations of 49 C.F.R. Part 192.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to be made by wire transfer through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-341), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 269039, Oklahoma City, Oklahoma 73125. The Financial Operations Division telephone number is (405) 954-8893.

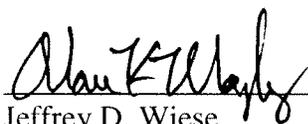
Failure to pay the \$35,000 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a district court of the United States.

### COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1–6 in the Notice for violations of 49 C.F.R. §§ 192.905(a), 192.905(b), 192.945(a), 192.911(m), 192.915, and 192.805(b), respectively. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. In its Response, Mardi Gras explained that subsequent to the commencement of this proceeding, it had divested its pipeline assets. Since Respondent no longer operates the pipeline, there is no need to include the compliance terms proposed in the Notice in this Order. However, the new operator of the line, Torch Energy Services, Inc., is advised that it needs to comply with the proposed compliance terms applicable to the findings set forth above or face the possibility of future enforcement action.

Under 49 C.F.R. § 190.215, Respondent has the right to submit a petition for reconsideration of this Final Order. Should Respondent elect to do so, the petition must be sent to: Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2<sup>nd</sup> Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. PHMSA will accept petitions received no later than 20 days after receipt of service of the Final Order by the Respondent, provided they contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.215. The filing of a petition automatically stays the payment of any civil penalty assessed. Unless the Associate Administrator, upon request, grants a stay, all other terms and conditions of this Final Order are effective upon receipt of service.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

for:   
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Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

**DEC 19 2011**

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Date Issued