

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

March 4, 2009

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

CPF 4-2009-1007

Dear Mr. Burge:

On April 16 – 20, 2007, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code inspected Mardi Gras Pipeline procedures for Integrity Management in Covington, Louisiana.

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

1. §192.905(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 for 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.)

At the time of the inspection, Mardi Gras Pipeline stated that they will use method 1, as defined in §192.903, to identify high consequence areas. The team found that Mardi Gras had not completely determined the identification of HCAs that meet the requirements of §192.905. The Class 3 areas identified by Mardi Gras had not been defined with precise end points on the pipeline defined in terms of stationing or another method. Mardi Gras is currently making an effort to define these locations more precisely.

2. §192.905(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 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...

At the time of the inspection, Mardi Gras Pipeline stated that they had not used public officials as a resource to search for identified sites. The team found that Mardi Gras had not documented a complete systematic, search for potential identified sites using input from public officials and other sources. Although identified sites within class 3 areas will be captured because Method 1 is being used to define HCAs, this is not the case for class 1 or class 2 areas. Some sites near the pipeline that could be identified sites within the potential impact radius had not been considered specifically the prison south of Angie and buildings near the Angie station.

3. §192.945(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 (ibr, 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.

During the inspection the Mardi Gras Pipeline IM program performance records were reviewed by the inspection team. The team found that Mardi Gras Pipeline failed to provide reports to PHMSA in a timely manner. The IM program performance measures required to be

reported to PHMSA semi-annually were reported later than the required deadline for the last three reporting periods. The dates for online submittals were 6/30/06, 12/31/06, and 12/31/05. Performance measures were received on 4/10/07, 4/10/07, and 3/22/06.

4. § 192.911 An operator's initial integrity management program begins with a framework (see CFR: 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 for more detailed information on the listed element.) (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.**

During the inspection the inspection team asked to see the Mardi Gras' communication plan. Mardi Gras Pipeline did not present a public awareness plan to the inspection team or present evidence that the plan was developed.

5. § 192.915 (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.**

At the time of the inspection, the inspection team asked Mardi Gras Pipeline to show that its supervisory personnel possessed a thorough knowledge of the integrity management program. Additionally, they were asked to provide criteria for the qualification of personnel that carry out assessments and are responsible for preventive and mitigative measures. The inspection team found that Mardi Gras Pipeline did not demonstrate that personnel associated with responsibilities involving the integrity management program, personnel who carry out

evaluation assessment and personnel who implement preventive and mitigative measures were adequately trained or experienced to carry out their assigned key Integrity Management program responsibilities.

6. §192.805 Each operator shall have and follow a written qualification program. The program shall have provisions to:

(b) Ensure through evaluation that individuals performing covered tasks are qualified;

During the inspection, the inspection team asked to review the qualifications of the individuals performing covered tasks. The inspection team found that Mardi Gras Pipeline failed to properly qualify two pipeline operator individuals prior to allowing them to perform covered tasks, from August 2006 through May 2007. Other than the *cathodic protection survey* and *odorization of gas* covered tasks performed by specific contractors, Mardi Gras Pipeline did not have anyone evaluated and qualified to perform covered tasks designated by Mardi Gras Pipeline.

Proposed Civil Penalty

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. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$63,800 as follows:

<u>Item number</u>	<u>PENALTY</u>
3	\$10,000
4	\$10,000
5	\$15,000
6	\$28,800

Proposed Compliance Order

With respect to items 1-6 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Mardi Gras Pipeline. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

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. 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). 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.

In your correspondence on this matter, please refer to **CPF 4-2009-1007** and for each document you submit, please provide a copy in electronic format whenever possible

Sincerely,

R. M. Seeley
Director, Southwest Region
Pipeline and Hazardous
Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Compliance Proceedings

PROPOSED COMPLIANCE ORDER

Pursuant to 49 U.S.C. § 60118, the Office of Pipeline Safety proposes to issue to Mardi Gras Pipeline a Compliance Order incorporating the following requirements to assure the compliance of Mardi Gras Pipeline with the pipeline safety regulations applicable to its operations.

1. In regard to Item 1 of the Notice, Mardi Gras Pipeline must provide this office documentation that substantiates that identification of HCAs that meet all the rule requirements has been completed. The documentation must show that class 3 areas have been defined with precise end points on the pipeline defined in terms of stationing or another method. Additionally, the documentation must include screenshots or aerial photography that clearly indicates the beginning and end point of the Class 3 areas.
2. In regard to Item 2 of the Notice, Mardi Gras Pipeline must provide this office documentation that substantiates that a systematic, complete search for potential identified sites using input from public officials and other sources. Although identified sites within class 3 areas will be captured because Method 1 is being used to define HCAs, the search potential identified sites must include class 1 and class 2 areas. The documentation must include screenshots or aerial photography that clearly indicates the beginning and end point of the HCA associated with the particular line segments. Additionally, documentation must show what affects any new HCA or extensions of HCAs may have had on the BAP and how those affects will be remediated.
3. In regard to Item 3 of the Notice, Mardi Gras Pipeline must provide this office the most current documentation that substantiates that Mardi Gras Pipeline has met the requirements of §192.945(a). The documentation must indicate that the performance measures reports have been complete through June 30 and December 31 of each year and must be submitted within 2 months after those dates.
4. In regard to Item 4 of the Notice, Mardi Gras Pipeline must provide this office documentation that substantiates that a communication plan is in place and that it meets and includes the requirements of §192.911(m).
5. In regard to Items 5 of the Notice, Mardi Gras Pipeline must provide this office documentation that substantiates that Mardi Gras personnel or designated contractors have been adequately trained or experienced to carry out their assigned key IM program responsibilities as required by §192.915.
6. In regard to Items 6 of the Notice, Mardi Gras Pipeline must provide this office documentation that substantiates that a Mardi Gras personnel have been evaluated and qualified to perform covered tasks designated by Mardi Gras Pipeline as required §192.805(b).
7. Submit the results of the Proposed Compliance Order items above to the Region Director, Southwest Region, Office of Pipeline Safety, Pipeline and Hazardous

Materials Safety Administration, 8701 South Gessner, Suite 1110, Houston, Texas 77074. This is to be accomplished within 30 days following receipt of the Final Order.

8. Mardi Gras Pipeline shall maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to R. M. Seeley Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration. Costs shall be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.