

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

May 24, 2011

Mr. Richard Hatchett
Vice President
West Texas Gas, Inc.
211 North Colorado
Midland, TX 79701

CPF 4-2011-1006

Dear Mr. Hatchett:

On September 13, 2006 pursuant to 49 U.S.C. §§ 60118(b), 60122, and 49 C.F.R. § 190.213, the Associate Administrator for Pipeline Safety, Pipeline and Hazardous Materials Safety Administration (PHMSA), issued a Final Order to West Texas Gas, Inc (WTG). The Final Order (CPF 4-2004-1007) found that WTG committed violations of the pipeline safety regulations, including 49 C.F.R. §§ 192.553(b), 192.555(b)(1), and 192.603(b), for failing to follow requirements applicable to uprating or increasing maximum allowable operating pressure (MAOP). The Final Order assessed a civil penalty of \$60,000 for the violations, and directed WTG to take specific actions to comply with the cited regulations (Compliance Order), including the following:

3. Determine the MAOP of the Dalhart District pipeline system in accordance with 49 C.F.R. § 192.619 and submit the results and supporting documentation to the Director, Southwest Region. If necessary, reduce operating pressure of the pipeline system to ensure that the pipeline system is operated within MAOP in accordance with 49 C.F.R. § 192.619. Complete this item within 30 days of receipt of this Order.

As a result of a review of this matter, it appears that WTG has committed a probable violation of Item 3 of the Final Order. As identified in the CPF 4-2004-1007 findings of violation to Item 3, the Dalhart 22" Mainline system had a documented MAOP of 150 psig in accordance with §192.619(a)(2)(ii) pressure testing. The Compliance Order required pressure on the pipeline to remain at or below 150 psig until WTG could establish or confirm a higher MAOP in accordance with applicable uprating regulations.

WTG records show the 150 psig MAOP was exceeded a total of approximately 159 days between October 13, 2006, and June 22, 2010, in violation of the Order.

On May 1, 2007, PHMSA received a certified letter from WTG addressing the uprating of a portion of the Dalhart line and clarifying that a different portion, the "northern portion of the Dalhart 22" mainline, which was not included in this uprating process, will continue to be operated at the lower pressure of 150 psig."

On July 2, 2008, PHMSA received another certified letter from WTG outlining recent discussions with regard to the Dalhart line, (the original 84 miles of the 22" mainline system in its entirety). The letter stated that the line was now configured in 3 segments:

1. A 24 mile section that was replaced with reconditioned 12.75" .203wt, X-52 cathodically-protected steel pipeline ("Central Segment");
2. A 20 mile segment that remains in service at an MAOP of 150 psig ("Northern Segment"); and
3. A 40 mile segment that was uprated from 150 psig to 260 psig in accordance with 49 CFR § 192.619 ("Southern Segment").

In the month of June, 2010, representatives of PHMSA pursuant to Chapter 601 of 49 United States Code performed a follow-up inspection on your Natural Gas Transmission Pipeline, located in Dalhart, TX to determine compliance with the CPF 4-2004-1007 Final Order. During the inspection PHMSA received clarification concerning the current configuration of the line and reviewed records pertaining to each portion accordingly.

1. The 24 mile "Central Segment" runs north from Dalhart, TX to the WTG Perico Station. This section of 22" pipeline was replaced in July 2008. PHMSA reviewed pressure records and determined that the 22" mainline was in compliance with the Final Order until it was replaced in 2008. To ensure the new replacement pipe did not violate its MAOP, PHMSA reviewed pressure records from Perico Station. PHMSA determined the operating pressure of the replacement pipe to be in compliance with 49 C.F.R. Part 192.
2. The 20 mile "Northern Segment" runs from Brewster Station to Clayton, NM and has been an Interstate Transmission Pipeline subject to PHMSA jurisdiction since the issuance of the Final Order, CPF 4-2004-1007.

After the removal of the “Central Segment,” the “Northern Segment” received high pressure gas from a 6” jumper line from Perico station to Brewster station. The gas supply took a pressure reduction at Brewster Station prior to being introduced into the remaining “Northern Segment.”

During the field inspection, PHMSA obtained pressure records from the Brewster station and the Valley Farmer’s Check Station between the dates of the Final Order and the most current at the time of the inspection; September 2006 and June 2010 respectively. The records only show a single daily average pressure for each day. Average pressures indicate that pressures above the average occurred throughout the day; therefore, the highest pressure seen for any given day was not accurately documented.

The records provided indicate the MAOP was exceeded on the Northern 20 mile Segment of the 22” Mainline a total of approximately 159 days between October 13, 2006 and June 22, 2010. WTG stated that the pressure was increased in this portion of the line by manually adjusting regulator set points to increase line flow during periods of high demand. During this field inspection PHMSA reminded WTG that the Final Order, CPF 4-2004-1007 was still standing and instructed WTG to ensure the line was operated within the established 150 psig MAOP.

3. The 40 mile “Southern Segment” runs from the El Paso Tap Southeast of Dalhart, TX to the WTG Dalhart yard. WTG uprated the “Southern Segment” from 150 psig to 260 psig in December 2006.

PHMSA reviewed the uprating procedures and plan provided by WTG in October 2006 and execution records provided in May 2007 and determined them to be in compliance with 49 C.F.R. Part 192.

During the field inspection, WTG stated this segment was disconnected from the mainline at the Dalhart yard in January 2010 and is now considered an intrastate distribution line regulated by the Texas Railroad Commission (TRRC). PHMSA informed the TRRC and confirmed this segment is now considered intrastate and regulated by the TRRC.

PHMSA also reviewed pressure records for the “Southern Segment” and determined that the Final Order Item 3 was followed with regard to this segment and the pipeline had not exceeded its MAOP before or after the uprating; i.e. the pressure was kept below 150 psig prior to the uprating and below 260 psig after the uprating.

On January 24, 2011, per PHMSA request, WTG emailed maps of the Dalhart 22” line as configured prior to the violation in 2004 showing the 84 miles as a single line and of the line as configured in June 2010.

All of the above-referenced documentation clearly shows that West Texas Gas understood that the Compliance Order directed the “Northern Segment” to be operated

within the MAOP of 150 psig. The records also indicate that although portions of the Dalhart 22" line were replaced or reconfigured, West Texas Gas violated the Final Order, CPF 4-2004-1007 by operating the "Northern Segment" of the line over the MAOP of 150 psig.

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 \$ 108,700.

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 4-2011-1006** 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

Enclosure: Response Options for Pipeline Operators in Compliance Proceedings