



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety Administration**

400 Seventh Street, S.W.  
Washington, D.C. 20590

DEC 11 2006

Mr. Micheal Dunn  
Vice President, Operations, IT & Engineering  
Kern River Gas Transmission Co  
2755 E Cottonwood Pkwy Ste 300  
Salt Lake City, UT 84121-6949

Re: CPF No. 5-2006-1006

Dear Mr. Dunn:

Enclosed is the Final Order issued by the Acting Associate Administrator for Pipeline Safety in the above-referenced case. It makes a finding of violation and specifies actions to be taken to comply with the pipeline safety regulations. It also withdraws one of the allegations of violation. When the terms of the compliance order are completed, as determined by the Director, Western Region, this enforcement action will be closed. Your receipt of this Final Order constitutes service under 49 C.F.R. § 190.5.

Sincerely,

James Reynolds  
Pipeline Compliance Registry  
Office of Pipeline Safety

Enclosure

**VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

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

In the Matter of )  
)  
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Kern River Gas Transmission Company, )

CPF No. 5-2006-1006

Respondent )  
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**FINAL ORDER**

On July 11–15 and 25–28, 2005, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) conducted an on-site pipeline safety inspection of Respondent's Integrity Management Program (IMP) in Salt Lake City, Utah. As a result of the inspection, the Director, Western Region, issued to Respondent, by letter dated February 22, 2006, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice alleged that Respondent committed violations of 49 C.F.R. § 192.917 and proposed ordering Respondent to take certain measures to correct the alleged violations.

Respondent responded to the Notice by letter dated March 27, 2006 (Response). Respondent contested the allegations of violation, offered information in explanation of the allegations, and requested a hearing. The hearing was held on June 7, 2006 in Lakewood, Colorado. Respondent submitted a written post-hearing statement dated June 30, 2006 (Post-hearing Statement).

**FINDING OF VIOLATION**

Item 1 in the Notice alleged that Respondent violated 49 C.F.R. § 192.917(b) by failing to analyze all relevant information and risk factors to identify and evaluate potential threats to pipeline segments in a high consequence area. The Notice alleged that Respondent's risk analysis database did not contain complete information on maximum allowable operating pressure, pipe size, material properties, and coating information, which are required to be included under § 192.917(b) and the ASME B31.8S standard incorporated by reference.

In its Response and at the hearing, Respondent acknowledged that some data was missing from its risk analysis database. Respondent argued, however, that the ASME B31.8S standard prescribes methods for addressing missing data and that Respondent complied with those methods. Respondent further explained that subject matter experts evaluated the results of the risk analysis and determined that the missing data did not affect the outcome of the risk analysis.

Section 192.917 of the gas transmission pipeline integrity management regulations requires operators to identify all potential threats to each pipeline segment in a high consequence area and conduct a risk assessment that considers those threats and prioritizes segments for integrity assessment. Section 192.917(b) specifies that operators must gather and integrate existing data and information on the entire pipeline to identify and evaluate potential integrity threats. "In performing this data gathering and integration, an operator must follow the requirements in ASME/ANSI B31.8S, section 4. At a minimum, an operator must gather and evaluate the set of data specified in Appendix A to ASME/ANSI B31.8S . . . ."<sup>1</sup> Section 4.2 of ASME B31.8S states that an operator "shall collect, at a minimum" the data elements specified in Appendix A, including operating pressure, pipe size, material properties, and coating information.

Appendix A also addresses instances where data may be missing or questionable. "Where the operator is missing data, conservative assumptions shall be used when performing the risk assessment or alternatively the segment shall be placed in a higher priority category." Section 5.7(e) of the standard, cited by Respondent, addresses risk assessments and states: "For missing or questionable data, the operator should determine and document the default values that will be used and why they were chosen. The operator should choose default values that conservatively reflect the values of other similar segments on the pipeline or in the operator's system."

In accordance with § 192.917(b), Respondent must identify potential threats to its pipelines by gathering and integrating the data elements specified in Appendix A to ASME B31.8S, including maximum allowable operating pressure, pipe size, material properties, and coating information. If data is missing, Respondent must use default values (conservative assumptions) when performing the risk assessment and should determine and document the default values used and the reasons why those values were chosen.

Respondent acknowledged at the hearing and in its written responses that it did not gather and integrate all of the data pertaining to maximum allowable operating pressure, pipe size, material properties, and coating information (although Respondent asserted that most of the information related to those elements was included). Respondent presented no documentation explaining why such basic pipeline information was not gathered and integrated as required. Instead, Respondent stated that it utilized a process to address the missing data as provided for under ASME B31.8S. Respondent explained that the process used to complete the risk analysis involved a software program and algorithm that "[b]y design . . . utilizes conservative assumptions when faced with unknown or missing data."<sup>2</sup> However, Respondent did not provide further details and documentation of the process. For example, Respondent did not provide documentation to show how default values were chosen to replace missing data or what the effects of those values were on the risk analysis. Although Respondent stated that subject matter experts evaluated the results of the risk model and confirmed that the missing data had no impact on relative risk rankings (compared to subsequent models), Respondent did not provide any documentation of the experts' analyses to support Respondent's statement that the missing data

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<sup>1</sup> 49 C.F.R. § 192.917(b). The ASME B31.8S standard for managing gas pipeline system integrity is published by the American Society of Mechanical Engineers and is incorporated by reference at 49 C.F.R. § 192.7.

<sup>2</sup> Respondent's Post-hearing Statement, p.2 (June 30, 2006).

had no impact.<sup>3</sup>

Although Respondent stated that it used conservative default values to address missing data in accordance with § 192.917(b) and ASME B31.8S, Respondent did not present sufficient documentation of the process or supportive analysis to show compliance. During the hearing, Respondent admitted that it could not provide adequate documentation of the process. Respondent argued that § 192.917(b) and ASME B31.8S do not require documentation, because section 5.7(e) of ASME B31.8S states only that operators “*should* determine and document the default values that will be used and why they were chosen.”<sup>4</sup> As explained to Respondent during the hearing, however, PHMSA expects operators to implement “should” statements in industry standards that are invoked by regulation.<sup>5</sup> If an operator chooses not to implement a “should” statement, the operator must document in its integrity management program a sound technical basis for why the operator has chosen not to implement it.<sup>6</sup> Moreover, PHMSA has published on its Gas Transmission Pipeline Integrity Management web site the actual inspection protocols used by PHMSA in conducting compliance inspections. Inspection Protocol C.02 pertaining to data gathering and integration states: “If the operator lacks sufficient data or where data quality is suspect, verify that the operator has followed the requirements in ASME B31.8S [and that] . . . [r]ecords are maintained that identify how unsubstantiated data are used, so that the impact on the variability and accuracy of assessment results can be considered.”<sup>7</sup>

In the present case, Respondent did not gather and integrate each data element listed in Appendix A to ASME B31.8S as required, and provided no justification for the missing data. Respondent did not document a process used to address the missing data, including what default values were chosen to replace missing data, why those values were chosen, how they were used, and how the values impacted the assessment results. Respondent did not provide any technical basis for its failure to document this process. Accordingly, I find Respondent violated § 192.917(b). This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

<sup>3</sup> Respondent’s Response, pp. 1–3 (March 27, 2006) and Post-hearing Statement, pp. 3 & 6 (June 30, 2006). Respondent also argued that since the missing data had no impact on risk rankings, the process was valid and met regulatory requirements. Since the allegation is that Respondent’s process did not comply with § 192.917, Respondent’s assertions concerning the outcome of that process are not relevant.

<sup>4</sup> Section 5.7(e) of ASME B31.8S (emphasis added).

<sup>5</sup> This expectation and other guidance material concerning compliance with the integrity management regulations are communicated to operators via PHMSA’s Gas Transmission Pipeline Integrity Management web site at <http://primis.phmsa.dot.gov/gasimp>. Specifically, Frequently Asked Question (FAQ) No. 244 states: “*What is the OPS position with regard to implementation of ‘should’ statements in industry standards that are invoked by the rule? OPS expects operators to implement ‘should’ statements in industry standards that are invoked by the rule. Operators may choose to implement an alternative approach in meeting the recommendations of invoked standards. If this approach is taken, program requirements for the alternative approach must exist in IM Program documents and records must be generated by the alternative approach. The IM Program documents must also technically justify that the alternative approach provides an equivalent level of protection. If an operator chooses not to implement a ‘should’ statement in an invoked standard, a sound technical basis for why it has not been implemented must be documented in the IM Program documents.*” While answers to FAQs are not rules, they provide informal guidance to the regulated community about how to implement their integrity management programs in accordance with the requirements of 49 C.F.R. part 192.

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

<sup>7</sup> Protocol C.02 “Data Gathering and Integration” available at <http://primis.phmsa.dot.gov/gasimp>.

**WITHDRAWAL OF ALLEGATION**

Item 2 in the Notice alleged that Respondent violated 49 C.F.R. § 192.917(c). Based on the recommendation of the Director, Western Region, this allegation is withdrawn. The corresponding compliance order item is also withdrawn.

**COMPLIANCE ORDER**

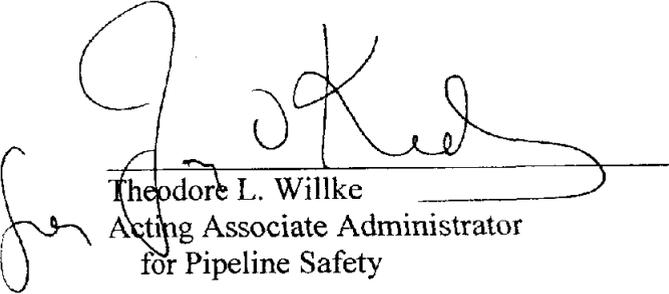
The Notice proposed a compliance order with respect to the violation of 49 C.F.R. § 192.917(b) in Item 1. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under Chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations. Respondent must—

1. In accordance with 49 C.F.R. § 192.917, complete a risk analysis and ranking of each pipeline segment located in a high consequence area. The risk analysis model must include all applicable risk factors that influence the integrity of covered pipeline segments and must document relevant input and data to ensure repeatable results.
2. Complete this item within 60 days of receipt of this Final Order and submit documentation of completion to the Director, Western Region, Pipeline and Hazardous Materials Safety Administration, 12300 W Dakota Ave Ste 110, Lakewood, CO 80228-2585.

The Director, Western Region, may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent demonstrating good cause for an extension.

Failure to comply with this Order may result in administrative assessment of civil penalties up to \$100,000 per day for each violation and in referral to the Attorney General for appropriate relief in a district court of the United States.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a Petition for Reconsideration of this Final Order. The petition must be received within 20 days of Respondent's receipt of this Final Order and must contain a brief statement of the issue(s). The terms of the order, including any required corrective action, remain in full effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order are effective on receipt.

  
 Theodore L. Willke  
 Acting Associate Administrator  
 for Pipeline Safety

DEC 11

Date Issued