



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Ave., SE
Washington, DC 20590

NOV 2 2010

Mr. Thomas K.L.M. Young
Senior Vice President and Chief Operating Officer
The Gas Company, LLC
P.O. Box 3000
Honolulu, HI 96802-3000

Re: CPF No. 5-2010-0007

Dear Mr. Young:

Enclosed please find the Final Order issued in the above-referenced case. It makes one finding of violation and specifies actions that need to be taken by The Gas Company, LLC, to comply with the pipeline safety regulations. When the terms of the compliance order have been completed, as determined by the Director, Western Region, 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 Linda Daugherty

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Chris Hoidal, Director, Western Region, PHMSA

CERTIFIED MAIL - RETURN RECEIPT REQUESTED [7005 1160 0001 0041 0312]

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

In the Matter of)	
)	
The Gas Company, LLC,)	CPF No. 5-2010-0007
)	
Respondent.)	
)	

FINAL ORDER

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 investigation of an accident involving the pipeline system operated by The Gas Company, LLC (The Gas Company or Respondent), in Honolulu, Hawaii. The Gas Company, a wholly-owned subsidiary of Macquarie Infrastructure Company, operates over 600 miles of gas distribution and transmission pipelines in Hawaii.¹ The investigation arose out of a release of gas and subsequent explosion in Honolulu on August 13, 2009.

As a result of the investigation, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated February 19, 2010, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that The Gas Company had violated 49 C.F.R. § 192.459 and proposed ordering Respondent to take certain measures to correct the alleged violation.

The Gas Company responded to the Notice by letter dated March 15, 2010 (Response). The company did not contest the allegation of violation, provided information concerning the corrective actions it planned to take, and requested an extension of the deadline for the completion of the proposed compliance order. Respondent did not request a hearing and therefore has waived its right to one.

FINDING OF VIOLATION

In its Response, The Gas Company did not contest the allegation in the Notice that it violated 49 C.F.R. Part 192, as follows:

¹ The Gas Company's website, <http://www.hawaiigas.com/about/index.html>, accessed October 12, 2010.

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.459, which states:

§ 192.459 -- External corrosion control: Examination of buried pipeline when exposed.

Whenever an operator has knowledge that any portion of a buried pipeline is exposed, the exposed portion must be examined for evidence of external corrosion if the pipe is bare, or if the coating is deteriorated. If external corrosion requiring remedial action under §§ 192.483 through 192.489 is found, the operator shall investigate circumferentially and longitudinally beyond the exposed portion (by visual examination, indirect method, or both) to determine whether additional corrosion requiring remedial action exists in the vicinity of the exposed portion.

The Notice alleged that Respondent violated 49 C.F.R. § 192.459 by failing to examine portions of a buried pipeline known to be exposed to the atmosphere. Specifically, the Notice alleged that a portion of a buried 4-inch main was located inside an underground vault, and was thus exposed to the atmosphere. The Notice alleged that The Gas Company first learned that this segment was exposed to the atmosphere inside the vault on October 2, 2006, and that the company tried unsuccessfully to reroute the pipeline segment around the vault on October 26, 2006. The Notice alleged further that the company took no steps to assess the condition of the pipeline at that time, and that there are no records to show that the company conducted any follow-up evaluation or remediation activity at the site. On August 13, 2009, the segment at issue, which was heavily corroded, leaked and caused an explosion in a nearby building. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.459 by failing to examine portions of a buried pipeline known to be exposed to the atmosphere.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 1 in the Notice for violation of 49 C.F.R. § 192.459. 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:

1. Respondent must investigate the remainder of its gas distribution system on Oahu for evidence of other areas where below-grade pipelines may be exposed to the atmosphere. If any other below-grade steel pipelines are discovered to be exposed to the atmosphere, Respondent must examine them for evidence of external corrosion, and either repair them or replace them per appropriate code requirements.
2. Respondent must combine the results of the system-wide survey described above into a summary report and submit the report to Chris Hoidal, Director, Western Region, PHMSA. The report must include the location, type of pipe identified, and remediation activities carried out for each incident discovered.

3. Respondent must train all operations and maintenance personnel who, in the execution of their normal duties could identify any pipe exposed to the atmosphere that would require follow-up per § 192.459.
4. Respondent must complete the steps described above by April 30, 2011.
5. Respondent must maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit that total to the Director, Western Region, PHMSA. Costs shall be reported in two categories: (1) total cost associated with preparation and revision of plans, procedures, studies, and analyses, and (2) total cost associated with replacements, additions, and other changes to pipeline infrastructure.

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

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$100,000 for each violation for each day the violation continues or 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 sent to: Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd 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 this 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. Unless the Associate Administrator, upon request, grants a stay, the terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.


for Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

NOV 2 2010

Date Issued