



U.S. Department  
of Transportation

Pipeline and Hazardous Materials  
Safety Administration

12300 W. Dakota Ave., Suite 110  
Lakewood, CO 80228

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

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

December 12, 2013

Mr. Tony Finneman  
Vice President of Operations  
WBI Energy Transmission Inc.  
1250 W. Century Avenue  
Bismarck, North Dakota 58503

**CPF 5-2013-1015**

Dear Mr. Finneman:

On May 21-25 and June 25-29, 2012, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code, inspected your Operations & Maintenance (O&M) procedures and records for your pipeline facilities in at your office in Glendive, Montana.

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

- 1. 192.935 What Additional preventive and mitigative measures must an operator take?**
  - (a) General requirements. An operator must take additional measures beyond those already required by Part 192 to prevent a pipeline failure and to mitigate the consequences of a pipeline failure in a high consequence area. An operator**

**must base the additional measures on the threats the operator has identified to each pipeline segment. (See § 192.917) An operator must conduct, in accordance with one of the risk assessment approaches in ASME/ANSI B31.8S (incorporated by reference, see § 192.7), section 5, a risk analysis of its pipeline to identify additional measures to protect the high consequence area and enhance public safety. Such additional measures include, but are not limited to, installing Automatic Shut-off Valves or Remote Control Valves, installing computerized monitoring and leak detection systems, replacing pipe segments with pipe of heavier wall thickness, providing additional training to personnel on response procedures, conducting drills with local emergency responders and implementing additional inspection and maintenance programs.**

Per 49 CFR 192.935(a), the operator must identify and take additional preventative and mitigative (P&M) measures to mitigate the consequences of a pipeline failure in a High Consequence Area (HCA) and enhance public safety. Such additional measures include, but are not limited to, installing automatic shut-off valves (ASV) or remote control valves (RCV), installing computerized monitoring and leak detection systems, and replacing pipe segments with pipe of heavier wall thickness. It does not appear that WBI performed an adequate risk analysis to identify additional P&M measures that should be taken beyond those already required by Part 192 in order to mitigate the consequences of a pipeline failure in a high consequence area.

In 2009, WBI Energy Transmission Inc.'s (WBI) Subject Matter Expert (SME) utilized their own risk analysis to identify additional P&M measures which included the potential addition of RCVs and ASVs. In their original draft analysis, WBI stated, "adding remote or automatic valves on this line would not eliminate the immediate effects of a failure." This statement was based on the findings of the Gas Research Institute (GRI) *Topical Report 91/0446- Cost Benefit Analysis of Excess Flow Valves* and the GRI *Final Report 98/0076* (issued in May of 1998). The GRI reports indicate that 79 of 81 injury incidents reported between 1970 and 1997 resulted in injuries which occurred within 3 minutes of the rupture, and 75 of these injury incidents occurred at the initial rupture. WBI's draft analysis contended that since it takes 5 to 10 minutes for their Gas Control to receive low pressure alarms that there are no potential benefits -- the injuries already would have occurred -- by adding RCVs and ASVs to expedite line shut down.

We believe that WBI did not adequately analyze and evaluate the need for RCV and ASV locations to determine if they would mitigate or enhance public safety in each HCA segment. The analysis should consider factors beyond immediate injury such as: prolonged flame exposure to emergency responders, danger to people caught in hard to evacuate areas, impact on key transportation corridors, and the risk of wildfires. It appears that WBI based their P&M analysis solely on the GRI report regarding immediate injury to people. A comprehensive evaluation must identify risks posed by prolonged heat exposure from escaping, burning natural gas and where needed, identify additional P&M measures for each WBI pipeline system that traverses HCAs.

Proposed Compliance Order

With respect to item Number 1 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to WBI Energy Transmission. 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 5-2013-1015** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,



Chris Hoidal  
Director, Western  
Pipeline and Hazardous Materials Safety Administration

cc: PHP-60 Compliance Registry  
PHP-500 K.Nguyen/R. Reineke (activity # 137567)

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

## **PROPOSED COMPLIANCE ORDER**

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to WBI Energy Transmission, Inc. (WBI) a Compliance Order incorporating the following remedial requirements to ensure the compliance of WBI with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to 192.935 (a), WBI must conduct an evaluation/risk analysis of its pipelines to determine if automatic shut-off valves or remote control valves would be an efficient means of adding protection to a high consequence area in an event of a gas release to reduce the risk from a ruptured gas pipelines and thus minimizing the consequences of certain gas pipeline ruptures.
2. WBI must complete items 1 within 180 days of Issuance of the Final Order.
3. It is requested (not mandated) that WBI maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Chris Hoidal, Director, Western, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs 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.