

May 3, 2018

Hon. Gloria Garcia, Mayor  
City of Victorville  
14343 Civic Drive  
PO Box 5001  
Victorville, CA 92393-5001

**Re: CPF No. 5-2017-0016**

Dear Mayor Garcia:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and specifies actions that need to be taken by the City of Victorville 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 effective upon the date of mailing, as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

Enclosure

cc: Director, Western Region, Office of Pipeline Safety, PHMSA  
Mr. C. Eric Ray, Airport Director, City of Victorville, 18374 Phantom West, Victorville,  
CA 92394

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

In the Matter of	)	
	)	
City of Victorville, California,	)	CPF No. 5-2017-0016
a municipal corporation,	)	
	)	
Respondent.	)	
	)	

**FINAL ORDER**

On May 8 through 10, 2017, 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 on-site pipeline safety inspection of the facilities and records of the City of Victorville (COV or Respondent) in Victorville, California. The Victorville Municipal Utility Services (VMUS) is the COV department charged with operating the city’s electrical and natural gas distribution systems. VMUS currently offers electrical service for commercial and industrial customers at Foxborough Industrial Park and Southern California Logistics Airport (SCLA), as well as 11.6 miles of natural gas service with 6-inch and 4-inch pipelines, for customers at SCLA.<sup>1</sup>

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated November 22, 2017, a Notice of Probable Violation and Proposed Compliance Order (Notice), which also included a warning pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that COV had committed six violations of 49 C.F.R. Part 192 and proposed ordering Respondent to take certain measures to correct the alleged violations. The warning items required no further action, but warned the operator to correct the probable violations or face possible future enforcement action.

COV responded to the Notice by letter dated December 20, 2017 (Response). The company did not contest the allegations of violation but provided information concerning the corrective actions it had taken. Respondent did not request a hearing and therefore has waived its right to one.

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<sup>1</sup> COV website, *available at* <http://www.victorvilleca.gov/Site/CityDepartments.aspx?id=5534> (last visited Feb. 8, 2018).

## **FINDINGS OF VIOLATION**

In its Response, Respondent did not contest the allegations in the Notice that it violated 49 C.F.R. Part 192, as follows:

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 192.16(b), which states:

**§ 192.16 Customer notification.**

- (a) ... .
- (b) Each operator shall notify each customer once in writing of the following information:
  - (1) The operator does not maintain the customer's buried piping.
  - (2) If the customer's buried piping is not maintained, it may be subject to the potential hazards of corrosion and leakage.
  - (3) Buried gas piping should be:
    - (i) Periodically inspected for leaks;
    - (ii) Periodically inspected for corrosion if the piping is metallic; and
    - (iii) Repaired if any unsafe condition is discovered.
  - (4) When excavating near buried gas piping, the piping should be located in advance, and the excavation done by hand.
  - (5) The operator (if applicable), plumbing contractors, and heating contractors can assist in locating, inspecting, and repairing the customer's buried piping.

The Notice alleged that Respondent violated 49 C.F.R. § 192.16(b) by failing to notify its customers once in writing of certain safety information. Specifically, the Notice alleged that COV failed to notify its customers in writing of the following information: (1) that COV does not maintain the customer's buried piping; (2) that if the customer's buried piping is not maintained, it may be subject to the potential hazards of corrosion and leakage; (3) that buried gas piping should be periodically inspected for leaks and corrosion if the piping is metallic and should be repaired if any unsafe condition is discovered; (4) that when excavating near buried gas piping, the piping should be located in advance, and the excavation done by hand; and (5) that the operator (if applicable), plumbing contractors, and heating contractors can assist in locating, inspecting, and repairing the customer's buried piping.

At the time of the PHMSA inspection, COV did not produce records to demonstrate that it had notified customers of the information listed above, in violation of § 192.16(b).

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. § 192.16(b) by failing to notify its customers once in writing of certain safety information.

**Item 2:** The Notice alleged that Respondent violated 49 C.F.R. § 192.615(c), which states:

**§ 192.615 Emergency plans.**

- (a) ... .

(c) Each operator shall establish and maintain liaison with appropriate fire, police, and other public officials to:

(1) Learn the responsibility and resources of each government organization that may respond to a gas pipeline emergency;

(2) Acquaint the officials with the operator's ability in responding to a gas pipeline emergency;

(3) Identify the types of gas pipeline emergencies of which the operator notifies the officials; and

(4) Plan how the operator and officials can engage in mutual assistance to minimize hazards to life or property.

The Notice alleged that Respondent violated 49 C.F.R. § 192.615(c) by failing to establish and maintain liaison with appropriate fire, police, and other public officials. Specifically, the Notice alleged that during the PHMSA inspection, the Gas Distribution Coordinator for COV stated to OPS that COV had an airport safety meeting, but this meeting only addressed airport safety; pipeline safety generally was not addressed. Further, no records were available at the time of inspection to demonstrate that the operator had liaised with appropriate fire, police, and other public officials in compliance with 49 C.F.R. §192.615(c).

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. § 192.615(c) by failing to establish and maintain liaison with appropriate fire, police, and other public officials.

**Item 3:** The Notice alleged that Respondent violated 49 C.F.R. § 192.616(c), which states:

**§ 192.616 Public awareness.**

(a) ... .

(c) The operator must follow the general program recommendations, including baseline and supplemental requirements of [American Petroleum Institute (API)] RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.

The Notice alleged that Respondent violated 49 C.F.R. § 192.616(c) by failing to follow the general program recommendations of API RP 1162, or provide a justification why compliance was not practicable and not necessary for safety. Specifically, the Notice alleged that at the time of the PHMSA inspection, COV's Public Awareness Manual did not have provisions for following the general program recommendations of API RP 1162 listed below:

a) API RP 1162 Section 2.2.2 Local Public Officials;

b) API RP 1162 Section 2.2.3 Emergency Officials;

c) API RP 1162 Section 2.2.4 Excavators; and

d) API RP 1162 Section 8 Program Evaluation.

By failing to include and follow the baseline and supplemental requirements of API RP 1162

listed above, and not providing justification in its program or procedural manual as to why compliance with these sections was not practicable and not necessary for safety, COV violated 49 C.F.R. § 192.616(c).

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. § 192.616(c) by failing to follow the general program recommendations of API RP 1162, or provide a justification why compliance was not practicable and not necessary for safety.

**Item 4:** The Notice alleged that Respondent violated 49 C.F.R. § 192.619, which states, in relevant part:

**§ 192.619 Maximum allowable operating pressure: Steel or plastic pipelines.**

(a) No person may operate a segment of steel or plastic pipeline at a pressure that exceeds a maximum allowable operating pressure determined under paragraph (c) or (d) of this section, or the lowest of the following:

(1) The design pressure of the weakest element in the segment, determined in accordance with subparts C and D of this part. However, for steel pipe in pipelines being converted under § 192.14 or updated under subpart K of this part, if any variable necessary to determine the design pressure under the design formula (§ 192.105) is unknown, one of the following pressures is to be used as design pressure...

(2) The pressure obtained by dividing the pressure to which the segment was tested after construction as follows...

(3) The highest actual operating pressure to which the segment was subjected during the 5 years preceding the applicable date in the second column. This pressure restriction applies unless the segment was tested according to the requirements in paragraph (a)(2) of this section after the applicable date in the third column or the segment was updated according to the requirements in subpart K of this part: . . . .

(4) The pressure determined by the operator to be the maximum safe pressure after considering the history of the segment, particularly known corrosion and the actual operating pressure. . . .

The Notice alleged that Respondent violated 49 C.F.R. § 192.619 by failing to determine the maximum allowable operating pressure of its gas distribution pipeline system. Specifically, the Notice alleged that at the time of the PHMSA inspection, the pipeline was operating at 55 psig but there were no records or other substantiating evidence to demonstrate that the maximum allowable operating pressure had been established for the pipeline system pursuant to 49 C.F.R. § 192.619.

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. § 192.619 by failing to determine the maximum allowable operating pressure of its gas distribution pipeline system.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

### **COMPLIANCE ORDER**

The Notice proposed a compliance order with respect to Items 1, 2, 3, and 4 in the Notice for violations of 49 C.F.R. §§ 192.16(b), 192.615(c), 192.616(c), and 192.619, respectively. 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. The Director has indicated that Respondent has taken the following actions to address Items 1, 3, and 4:

- Respondent has made the necessary changes to the General Natural Gas Service Information form VMA-112, which includes all information as required by 49 C.F.R. § 192.16(b). This revised notice was sent to all VMUS customers on December 12, 2017. Also, the VMUS service application that is given to every new customer, in the section titled, “Supplemental Documentation Required for Service,” now requires every new customer to initial, indicating they received the General Gas Service Information. Respondent also updated its procedure for Public Awareness and Damage Prevention on May 24, 2017.
- Respondent has updated Section B-13.2 of its procedure for Public Awareness and Damage Prevention to include provisions for API 1162, Recommended Practices for local public officials, emergency officials and excavators. The Procedure has been updated to include program evaluation. COV also provided the notices that were sent to customers and non-customers, public officials, emergency officials and excavators as recommended by API 1162 2.2.1, 2.2.2, 2.2.3, and 2.2.4, as well as records showing compliance with API 1162 recommended practices.
- Respondent has created a written procedure for determining the maximum allowable operating pressure of its distribution system. COV acquired the natural gas distribution system from the United States Air Force upon the closure of the former George Air Force Base. The VMUS staff has determined that any and all existing facilities that were operating at 20 psi while under the ownership of the Air Force will remain at 20 psi for their useful life. Any and all pipe and components that were installed after January 1, 2005, while under the responsibility of COV, will have a maximum allowable operating pressure of 60 psi. COV has provided various records from the past 11 years showing pressure-test data that corresponds with the VMUS maximum allowable pressure determination.

Accordingly, I find that compliance has been achieved with respect to these violations. Therefore, the compliance terms proposed in the Notice for Items 1, 3, and 4 are not included in this Order.

As for the remaining compliance terms, pursuant to the authority of 49 U.S.C. § 60118(b) and

49 C.F.R. § 190.217, I order that Respondent take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 192.615(c) (**Item 2**), Respondent must conduct liaison with appropriate fire, police, and other public officials to: (a) learn the responsibility and resources of each governmental organization that may respond to a gas pipeline emergency; (b) acquaint the officials with COV's ability in responding to a gas pipeline emergency; (c) identify the types of gas pipeline emergencies of which the operator notifies the officials; and (d) plan how the operator and officials can engage in mutual assistance to minimize hazards to life or property. COV must schedule a meeting with appropriate fire, police, and other public officials, and notify PHMSA in writing within 30 days of the scheduled liaison meeting so that PHMSA may attend the meeting in person. Records and documentation showing compliance with this requirement must be submitted to PHMSA within 180 days after receipt of the Final Order letter.

COV stated in its Response that it conducted an Airport Emergency Plan Tabletop Exercise on October 4, 2017, and included a PowerPoint presentation of the topics that were discussed during the exercise. COV stated that slide #9 of the PowerPoint presentation was created specifically to discuss the information required in 49 C.F.R. § 192.615 and that various points concerning liaison, roles, responsibilities, and mutual assistance were discussed and questions were fielded.

However, OPS has reviewed the content of the PowerPoint presentation and determined that it does not meet the requirements of 49 C.F.R. § 192.615(c) because the presentation focused on airport safety/airplane emergencies, and not gas pipeline safety/gas pipeline emergencies. I agree with the Region that the information on the slide was inadequate "to establish and maintain liaison with appropriate fire, police, and other public officials" regarding gas pipeline emergencies. OPS stated that a sufficient PowerPoint presentation should include discussion points/slides to acquaint officials with COV's abilities in responding to a gas pipeline emergency (e.g., the location of the pipeline and emergency valves, type of pipeline, its length and size, its emergency equipment and firefighting capabilities, staging area, scenario of gas leak, responsibility and resources of each government organization that may respond to a gas pipeline emergency), the types of gas pipeline emergencies of which COV notifies these officials, and how the operator and officials can engage in mutual assistance to minimize hazards to life or property.

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.

It is requested that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. 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.

Failure to comply with this Order may result in administrative assessment of civil penalties not to exceed \$200,000, as adjusted for inflation (49 C.F.R. § 190.223), 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.

### **WARNING ITEMS**

With respect to Items 5 and 6, the Notice alleged probable violations of Part 192 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 192.227(a) **(Item 5)** — Respondent's alleged failure to demonstrate that the person who welded on several above-ground pipeline installations completed in 2016 was qualified in accordance with Section 6 of API 1104 or section IX of the ASME Boiler and Pressure Vessel Code; and

49 C.F.R. § 192.285(a) **(Item 6)** — Respondent's alleged failure to demonstrate that the persons who made joints by fusion on several underground plastic main and service pipelines completed in 2013-2016 were properly qualified.

COV presented information in its Response showing that it had taken certain actions to address the cited items. If OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2<sup>nd</sup> Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address, no later than 20 days after receipt of service of this Final Order by Respondent. Any petition submitted must contain a statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The terms of the order, including corrective action, remain in effect 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.

May 3, 2018

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Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

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Date Issued