

June 19, 2019

Honorable Yvette Woodruff-Perez
Mayor
City of Vernon
4305 Santa Fe Avenue
Vernon, California 90058

Re: CPF No. 5-2018-0008

Dear Ms. Woodruff-Perez:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and finds that the City of Vernon Public Utilities Department must complete the actions specified in the Notice 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: Mr. Dustin Hubbard, Director, Western Region, Office of Pipeline Safety, PHMSA
Ms. Kelly Nguyen, General Manager, City of Vernon Public Utilities Department

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

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| In the Matter of |) | | |
| |) | | |
| City of Vernon, California, |) | | CPF No. 5-2018-0008 |
| a municipal corporation, |) | | |
| |) | | |
| Respondent. |) | | |
| |) | | |

FINAL ORDER

On April 24 through 27 and May 22 through 26, 2017, pursuant to 49 U.S.C. § 60117, representatives 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 Vernon Public Utilities Department (Vernon or Respondent) in Vernon, California. Respondent is the natural gas utility of the City of Vernon that provides gas distribution service to approximately 113,000 residents and businesses.¹

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated August 2, 2018, 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 Vernon had violated 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.

Respondent responded to the Notice by letter dated September 4, 2018 (Response). Vernon did not contest the allegations of violation and agreed to complete the proposed compliance actions. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

In its Response, Vernon 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. § 192.921(a), which states:

¹ See <http://www.cityofvernon.org/departments/public-utilities> (Current as of March 11, 2019).

§ 192.921 How is the baseline assessment to be conducted?

(a) *Assessment methods.* An operator must assess the integrity of the line pipe in each covered segment by applying one or more of the following methods depending on the threats to which the covered segment is susceptible. An operator must select the method or methods best suited to address the threats identified to the covered segment (*See* § 192.917).

(1) Internal inspection tool or tools capable of detecting corrosion, and any other threats to which the covered segment is susceptible. An operator must follow ASME/ANSI B31.8S (incorporated by reference, *see* § 192.7), section 6.2 in selecting the appropriate internal inspection tools for the covered segment.

The Notice alleged that Respondent violated 49 C.F.R. § 192.921(a) by failing to assess the integrity of the line pipe in each covered segment. Specifically, Vernon conducted an in-line inspection (ILI) in 2013 as its baseline assessment. Direct examination of ILI defect indications is required by ASME B31.8S-2004, Section 6.2.6 Examination and Evaluation, which is incorporated by reference into Part 192. During the inspection, statements made by Vernon staff and a consultant confirmed that Vernon did not conduct direct examination and evaluation of identified defect indications called out by the ILI tool, therefore failing to assess the integrity of the covered segments.

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. § 192.921(a) by failing to assess the integrity of the line pipe in each covered segment.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.947(d), which states:

§ 192.947 What records must an operator keep?

An operator must maintain, for the useful life of the pipeline, records that demonstrate compliance with the requirements of this subpart. At minimum, an operator must maintain the following records for review during an inspection.

(a) ...

(d) Documents to support any decision, analysis and process developed and used to implement and evaluate each element of the baseline assessment plan and integrity management program. Documents include those developed and used in support of any identification, calculation, amendment, modification, justification, deviation and determination made, and any action taken to implement and evaluate any of the program elements;

The Notice alleged that Respondent violated 49 C.F.R. § 192.947(d) by failing to maintain records that demonstrate compliance with the transmission pipeline integrity management requirements of Subpart O. Specifically, the Notice alleged that Respondent did not maintain documents of the annual review of the Vernon Transmission Integrity Management Program (IMP). Additionally, the Notice alleged Vernon failed to document a Management of Change

(MOC) process when changing integrity assessment methods from external corrosion direct assessment (ECDA) to ILI.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all the evidence, I find that Respondent violated 49 C.F.R. § 192.947(d) by failing to maintain records that demonstrate compliance with the requirements of Subpart O.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.935(d), which states:

§ 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...

(d) *Pipelines operating below 30% SMYS.* An operator of a transmission pipeline operating below 30% SMYS located in a high consequence area must follow the requirements in paragraphs (d)(1) and (d)(2) of this section ...

(1) Apply the requirements in paragraphs (b)(1)(i) and (b)(1)(iii) of this section to the pipeline; and

(2) Either monitor excavations near the pipeline, or conduct patrols as required by § 192.705 of the pipeline at bi-monthly intervals. If an operator finds any indication of unreported construction activity, the operator must conduct a follow up investigation to determine if mechanical damage has occurred.

The Notice alleged that Respondent violated 49 C.F.R. § 192.935(d) by failing to apply the requirements in paragraphs (b)(1) of this section and to either monitor excavations or conduct patrols to prevent a pipeline failure and to mitigate the consequences of a pipeline failure in high consequence areas (HCAs). Specifically, the Notice alleged that Vernon, an operator of a transmission line operating below 30% SMYS located in an HCA, failed to address any of the requirements of § 192.935(d) and failed to include in its IMP a process to address the requirements of § 192.935(d).

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all the evidence, I find that Respondent violated 49 C.F.R. § 192.935(d) by failing to apply the requirements in paragraphs (b)(1) of this section and to either monitor excavations or conduct patrols to prevent a pipeline failure and to mitigate the consequences of a failure in an HCA.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 192.917, which states:

§ 192.917 How does an operator identify potential threats to pipeline integrity and use the threat identification in its integrity program?

(a) *Threat identification.* An operator must identify and evaluate all potential threats to each covered pipeline segment. Potential threats that an

operator must consider include, but are not limited to, the threats listed in ASME/ANSI B31.8S (incorporated by reference, *see* § 192.7), section 2, which are grouped under the following four categories:

- (1) Time dependent threats such as internal corrosion, external corrosion, and stress corrosion cracking;
- (2) Static or resident threats, such as fabrication or construction defects;
- (3) Time independent threats such as third party damage and outside force damage; and
- (4) Human error.

(b) *Data gathering and integration.* To identify and evaluate the potential threats to a covered pipeline segment, an operator must gather and integrate existing data and information on the entire pipeline that could be relevant to the covered segment. 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, and consider both on the covered segment and similar non-covered segments, past incident history, corrosion control records, continuing surveillance records, patrolling records, maintenance history, internal inspection records and all other conditions specific to each pipeline.

(c) *Risk assessment.* An operator must conduct a risk assessment that follows ASME/ANSI B31.8S, section 5, and considers the identified threats for each covered segment. An operator must use the risk assessment to prioritize the covered segments for the baseline and continual reassessments (§§ 192.919, 192.921, 192.937), and to determine what additional preventive and mitigative measures are needed (§ 192.935) for the covered segment.

The Notice alleged that Respondent violated 49 C.F.R. § 192.917 by failing to identify and evaluate all potential threats to each covered pipeline segment. Specifically, the Notice alleged that while Vernon's IMP discusses threat identification, and Section 4 identifies external corrosion as the *primary* threat, the IMP has no process to identify and evaluate *potential* threats. Additionally, the Notice alleged that Section 4 makes no mention of how Vernon gathers and integrates existing data and information on the entire pipeline that could be relevant to the covered segment, and how this data is analyzed to conduct a risk assessment. Finally, the Notice alleged that Vernon's IMP contained no Risk Methodology.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all the evidence, I find that Respondent violated 49 C.F.R. § 192.917 by failing to identify and evaluate all potential threats to each covered pipeline segment.

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. §§ 192.921(a), 192.947(d), 192.935(d), and 192.917, 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. 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. With respect to the violation of § 192.921(a) (**Item 1**), Respondent must develop and implement a written process requiring examination and evaluation of ILI defect indications in accordance with ASME B31.8S-2004 (incorporated by reference, *see* § 192.7).
2. With respect to the violation of § 192.947(d) (**Item 2**), Respondent must complete an IMP review for 2018. Vernon must document, per its MOC process, the reasons for changing integrity assessment methods from ECDA to ILI.
3. With respect to the violation of § 192.935(d) (**Item 3**), Respondent must develop and implement a written process addressing the requirements of § 192.935(d).
4. With respect to the violation of § 192.917 (**Item 4**), Respondent must develop and implement a process in accordance with ASME B31.8S-2004 (incorporated by reference, *see* § 192.7) for identifying and evaluating system threats, collecting pipeline and system data and a risk ranking methodology.
5. Vernon must complete the remedial requirements of this Compliance Order within 180 days after receipt of this Final Order and submit documentation to the Director that the remedial requirements have been completed within 210 days of receipt of this Final Order.

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 (not mandated) 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 the 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, 6, and 7, 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 warning items. The warnings were for:

49 C.F.R. § 192.915 (**Item 5**) — Respondent’s alleged failure to ensure that persons whose responsibilities relate to the integrity management program have adequate knowledge and training to carry out an integrity management program;

49 C.F.R. § 192.911(l) (**Item 6**) — Respondent’s alleged failure to perform a quality assurance process as outlined by ASME/ANSI B31.8S, Section 12 (incorporated by reference, *see* § 192.7); and

49 C.F.R. § 192.945(a) (**Item 7**) — Respondent’s alleged failure to include in its IMP methods to adequately measure program effectiveness.

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, 2nd 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.

June 19, 2019

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued