

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

VIA E-MAIL TO MR. KEVIN JONES

July 13, 2020

Mr. Kevin Jones
Interim City Administrator
City of Susanville
66 North Lassen Street
Susanville, CA 96130

CPF 5-2020-0009

Dear Mr. Jones:

On September 9 through 12, 2019, representatives of the California Public Utilities Commission (CPUC), on behalf of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected the City of Susanville's (Susanville) natural gas distribution and transmission pipeline systems.

As a result of the inspection, it is alleged that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

1. § 192.616 Public awareness.

(a) ...

(c) The operator must follow the general program recommendations, including baseline and supplemental requirements of 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.

Section 8.3 of API RP1162 requires that “The operator should complete an annual audit or review of whether the program has been developed and implemented according to the guidelines in this RP.” Susanville failed to complete an annual audit or review of whether the program had been developed and implemented as required by API RP1162 Section 8.3. During the inspection, Susanville was unable to present documentation evidencing required annual audits of its public awareness program. Susanville did not otherwise provide justification in its program or procedural manual as to why compliance with Section 8.3 was not practicable and not necessary for safety.

2. § 192.616 Public awareness.

(a) ...

(c) The operator must follow the general program recommendations, including baseline and supplemental requirements of 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.

Section 8.4.2 of API RP1162 requires that a program effectiveness survey be conducted about every 4 years. The last effectiveness survey was conducted in 2014. During the inspection, Susanville failed to provide any documentation evidencing that a program effectiveness survey was conducted in 2018, 4 years since its last survey. Susanville did not otherwise provide justification in its program or procedural manual as to why compliance with Section 8.4.2 was not practicable and not necessary for safety.

Proposed Compliance Order

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violation occurring on or after November 2, 2015 and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022. For violations occurring prior to November 2, 2015, the maximum penalty may not exceed \$200,000 per violation per day, with a maximum penalty not to exceed \$2,000,000 for a related series of violations.

We have reviewed the circumstances and supporting documents involved in this case, and have decided not to propose a civil penalty assessment at this time.

With respect to Items 1 & 2 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to The City of Susanville. 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 Enforcement 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).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. 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. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 5-2020-0009** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Dustin Hubbard
Director, Western Region
Pipeline and Hazardous Materials Safety Administration

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

cc: PHP-60 Compliance Registry
PHP-500 J. Dunphy (#165835)
Terrence Eng, Program Manager, Gas Safety and Reliability Branch,
California Public Utilities Commission

PROPOSED COMPLIANCE ORDER

Pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to the City of Susanville a Compliance Order incorporating the following remedial requirements to ensure the compliance of the City of Susanville with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to the failure to conduct annual audits or reviews of the Public Awareness Program, Susanville must conduct an audit of the Public Awareness Program. Susanville shall complete the 2020 annual audit of the Public Awareness Program within 30-days of receiving the Final Order.
2. In regard to Item Number 2 of the Notice pertaining to the failure to conduct the four-year program effectiveness survey, Susanville must complete the effectiveness survey for the period 2015-2019. Susanville shall complete the four-year program effectiveness survey within 180-days of receiving the Final Order.
3. It is requested (not mandated) that The City of Susanville maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Dustin Hubbard, Director, Western Region, 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.