



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

January 8, 2021

VIA ELECTRONIC MAIL TO: dougbuchanan@ci.pittsburg.ca.us

Mr. Douglas W. Buchanan, PE
Power Company Manager
Pittsburg Power Company – Island Energy
995 Walnut Avenue
Vallejo, California 94592

Re: CPF No. 5-2020-004-NOPV

Dear Mr. Buchanan:

Enclosed please find the Final Order issued in the above-referenced case to Pittsburg Power Company, d/b/a Island Energy. It makes findings of violation and specifies actions that need to be taken 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 electronic mail is effective upon the date of transmission, as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

ALAN KRAMER
MAYBERRY

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KRAMER MAYBERRY
Date: 2021.01.08
08:51:16 -05'00'

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosures (Final Order and NOPV)

cc: Mr. Garrett Evans, City Manager, City of Pittsburg, CA, gevans@ci.pittsburg.ca.us

CONFIRMATION OF 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)	
)	
Pittsburg Power Company,)	
a California municipal authority,)	CPF No. 5-2020-004-NOPV
d/b/a Island Energy,)	
)	
Respondent.)	
)	

FINAL ORDER

On October 16, 2020, pursuant to 49 C.F.R. § 190.207, the Director, Western Region, Office of Pipeline Safety (OPS), issued a Notice of Probable Violation (Notice) to the Pittsburg Power Company, a municipal authority, that operates a gas distribution system known as Island Energy on Mare Island in Vallejo, California (Respondent).¹ The Notice proposed finding that Respondent had violated the pipeline safety regulations in 49 C.F.R. Part 192. The Notice also proposed certain measures to correct the violations. Respondent did not contest the allegations of violation or corrective measures.

Based upon a review of all of the evidence, pursuant to 49 C.F.R. § 190.213, I find that Respondent violated the pipeline safety regulations listed below, as more fully described in the enclosed Notice, which is incorporated by reference:

49 C.F.R. § 192.616(d) (**Item 1**) — Respondent failed to identify dredging companies as individual stakeholders in its Public Awareness Program;

49 C.F.R. § 192.616(c) (**Item 2**) — Respondent failed to deliver materials and messages to the Coast Guard in 2019, as required by [American Petroleum Institute Recommended Practice (API RP)] 1162, Table 2-1; and

49 C.F.R. § 192.616(c) (**Item 3**) — Respondent failed to provide documentation that it had conducted an effectiveness review of its Public Awareness Program, or provide justification as to why compliance with an effectiveness review was not practicable and not necessary for safety, as required by API RP 1162, Section 8.4.

¹ The Notice was issued to the City of Pittsburg, when it should have been issued more properly to the Pittsburg Power Company, a California municipal Joint Powers Authority (JPA) established in 1997 between the City of Pittsburg and the City’s Redevelopment Agency. As a California JPA, Pittsburg Power Company performs as an electric and natural gas municipal utility, with the authority to provide wholesale and retail electric and gas utility services under authorized franchise agreements within California. See <http://pittsburgpowerco.com/blog/about-us/>.

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

COMPLIANCE ORDER

Pursuant to 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the actions proposed in the enclosed Notice to correct the violations. 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. Upon completion of ordered actions, Respondent may request that the Director close the case. Failure to comply with this Order may result in the assessment of civil penalties under 49 C.F.R. § 190.223 or in referral to the Attorney General for appropriate relief in a district court of the United States.

The terms and conditions of this order are effective upon service in accordance with 49 C.F.R. § 190.5.

ALAN KRAMER
MAYBERRY

Digitally signed by ALAN
KRAMER MAYBERRY
Date: 2021.01.08 08:52:32
-05'00'

January 8, 2021

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued



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**

VIA E-MAIL TO MR. GARRETT EVANS

October 16, 2020

Mr. Garrett Evans
City Manager
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

CPF 5-2020-004-NOPV

Dear Mr. Evans:

On February 24 through 28, 2020, 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 Pittsburg, California natural gas distribution system (Island Energy) on Mare Island in Vallejo, California.

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) . . .

(d) The operator's program must specifically include provisions to educate the public, appropriate government organizations, and persons engaged in excavation related activities on:

- (1) Use of a one-call notification system prior to excavation and other damage prevention activities;**
- (2) Possible hazards associated with unintended releases from a gas pipeline facility;**
- (3) Physical indications that such a release may have occurred;**
- (4) Steps that should be taken for public safety in the event of a gas pipeline release; and**
- (5) Procedures for reporting such an event.**

The Island Energy Public Awareness Program procedures do not identify dredging companies as individual stakeholders. Island Energy operates a pipeline main that passes under the Napa River ship channel. This issue was cited by Western Region in CPF 5-2017-0012M, Item 4.

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.

Island Energy failed to deliver materials and messages to the Coast Guard in 2019. Table 2-1 of API RP 1162 requires an annual frequency to Emergency Officials.¹

3. §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.

Island Energy was not able to provide documentation that it had conducted an effectiveness review of the Public Awareness Program, nor was able to provide justification in its program or procedural manual as to why compliance with this effectiveness review was not practicable and not necessary for safety. An Effectiveness review is required by API RP 1162 Section 8.4.

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.

¹ See CPF No. 5-2017-0012M, Operator Response at 2 (Sept. 8, 2017) (on file with PHMSA) (noting that “[t]he U.S Coastguard has also been added to the list of local safety agencies to receive annual emergency response information as detailed in our public awareness plan”) and Attachment (updated procedures).

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 1-3 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to the City of Pittsburg, California. 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 5-2020-004-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible. Please copy the California Public Utilities Commission on all correspondence.

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 (#20-173118)
Terrence Eng, Program Manager, Gas Safety and Reliability Branch, California Public Utilities Commission
Doug Buchanan, General Manager Island Energy, 995 Walnut Ave., Vallejo, CA 94592

PROPOSED COMPLIANCE ORDER

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

- A. In regard to Item 1 of the Notice pertaining to failure to identify dredging companies in the excavator list of the Public Awareness Program (PAP), Island Energy must revise the PAP to specifically list those dredging companies active in the area of the Island Energy main passing under the Napa River within **60** days of receipt of the Final Order.
- B. In regard to Item 2 of the Notice pertaining to the failure to deliver Public Awareness Program (PAP) materials to the Coast Guard, Island Energy must deliver the requisite materials within **30** days of receipt of the Final Order.
- C. In regard to Item 3 of the Notice pertaining to the failure to conduct an effectiveness review of the PAP, Island Energy must complete an effectiveness review of the PAP within **180** days of receipt of the Final Order.
- D. It is requested (not mandated) that Island Energy 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.