



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

230 Peachtree Street, NW
Suite 2100
Atlanta, GA 30303

WARNING LETTER

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

May 11, 2020

Mr. J. Eric Pike
Chairman and CEO
Pike Corporation
100 Pike Way
Mount Airy, NC 27030

CPF 2-2020-0001E

Dear Mr. Pike:

On September 6, September 30, and October 4, 2019, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.), investigated damage to a natural gas pipeline in Port St. Lucie, Florida.

Based on the investigation, it is alleged that Pike Corporation (Pike) has committed a probable violation of Part 196 of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (C.F.R.). The item investigated and the probable violation is:

1. **§196.103 What must an excavator do to protect underground pipelines from excavation-related damage?**
Prior to and during excavation activity, the excavator must:
 - (a) ...
 - (c) **Excavate with proper regard for the marked location of pipelines an operator has established by taking all practicable steps to prevent excavation damage to the pipeline;**

Pike failed to comply with the regulation because it did not excavate with proper regard for the marked location of pipelines an operator had established by taking all practicable steps to prevent excavation damage to the pipeline. Specifically, Pike failed to follow the local standard of care established under Florida Law when performing excavation activity near a marked pipeline.

On July 24, 2019, Pike was excavating with a directional boring machine when it struck a 4-inch gas main (pipeline) operated by Florida City Gas (FCG). FCG's incident analysis

found that the pipeline marking was approximately 14-inches offset from the actual pipeline, confirming that the marking was within the tolerance zone. Florida Statute § 556.102(12) defines *tolerance zone* as an area “24-inches from the outer edge of either side of the exterior surface of a marked underground facility,” the “facility” in this instance being the referenced FCG pipeline.

Furthermore, Florida Statute § 556.105(5)(c) states in part that “when excavation is to take place within a tolerance zone, an excavator shall use increased caution to protect underground facilities. The protection requires hand digging, pot holing, soft digging, vacuum excavation methods, or other similar procedures to identify underground facilities.” FCG’s incident analysis concluded that Pike’s spot dig was located eight-to-ten feet north of the marked FCG line, outside of the identified tolerance zone. At the time of the incident, the excavator operator stated that the depth of the marked pipeline at the point of impact was assumed to be the same depth as where the spot dig took place. The damage to the FCG pipeline caused no injuries, fatalities, or fire, but interrupted service to 27 customers for several hours.

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, Pike is 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. We have reviewed the circumstances and supporting documents involved in this case, and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise Pike to correct the item identified in this letter. Failure to do so will result in Pike being subject to additional enforcement action.

No reply to this letter is required. If you choose to reply, in your correspondence please refer to **CPF 2-2020-0001E**. 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).

Sincerely,



James A. Urisko
Director, Office of Pipeline Safety
PHMSA Southern Region