



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

233 Peachtree Street Ste. 600
Atlanta, GA 30303

WARNING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

November 17, 2016

Mr. Adam Hendry
Tzadik Eagle Reserve, LLC (d/b/a Tzadik Brookside Apartments)
11098 Biscayne Blvd, #203
Miami, FL 33161

CPF 2-2016-0003W

Dear Mr. Hendry:

On July 20-21, 2016, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Southern Region, Office of Pipeline Safety inspected the Eagle Reserve Apartments¹ (Eagle Reserve) written procedures and records in its Orlando, Florida, office and its two liquefied petroleum gas (LPG) master meter pipeline systems in Orange County, Florida, pursuant to Chapter 601 of 49 United States Code.

As a result of the inspection, it appears that Eagle Reserve committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violations are as follows:

1. § 192.11 Petroleum gas systems.

(a) ...

(b) Each pipeline system subject to this part that transports only petroleum gas or petroleum gas/air mixtures must meet the requirements of this part and of ANSI/NFPA 58 and 59.

- Eagle Reserve did not meet the requirements for regulator installation in NFPA 58 (2004), Section 6.7.4.5, which states that *"The point of discharge from the required pressure relief device on regulating equipment installed outside of buildings in fixed piping systems shall be located not less than 3 ft (1 m) horizontally away from any building opening below the level of such discharge, and not beneath any building unless this space is well ventilated to the outside and is not enclosed for more than 50 percent of its perimeter."*

¹ At the time of the inspection, the gas systems, referenced herein, were owned by Eagle Reserve, LLC, and operated as Eagle Reserve Apartments. On August 10, 2016, the property was sold to Tzadik Eagle Reserve, LLC, and, subsequently, began doing business as Tzadik Brookside Apartments.

The PHMSA inspector observed pressure relief device vents, at Buildings 3975, 3985, 5245, 5255, 5365, 5475, 5525, and 5565, with a point of discharge less than 3 feet horizontally from a building opening below the point of discharge.

- Eagle Reserve did not meet the requirements for regulator installation in NFPA 58 (2004), Section 6.7.4.6, which states that *"The point of discharge shall also be located not less than 5 ft (1.5 m) in any direction away from any source of ignition, openings into direct-vent (sealed combustion system) appliances, or mechanical ventilation air intakes."*

The PHMSA inspector observed a pressure relief device at Building 3975 with its point of discharge less than 5 feet from a source of ignition.

2. §192.321 Installation of plastic pipe.

(a) ...

(e) Plastic pipe that is not encased must have an electrically conducting wire or other means of locating the pipe while it is underground. Tracer wire may not be wrapped around the pipe and contact with the pipe must be minimized but is not prohibited. Tracer wire or other metallic elements installed for pipe locating purposes must be resistant to corrosion damage, either by use of coated copper wire or by other means.

Eagle Reserve did not install an electrically conducting wire or other means of locating the pipe while it is underground.

At the time of the inspection, the PHMSA inspector requested the Eagle Reserve maintenance manager locate the plastic mains and service lines at several different locations. The maintenance manager indicated that she did not have a means of locating the mains or service lines and was not aware of any locations within the system where tracer wire was installed.

3. §192.491 Corrosion control records.

(a) ...

(c) Each operator shall maintain a record of each test, survey, or inspection required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist. These records must be retained for at least 5 years, except that records related to §§192.465 (a) and (e) and 192.475(b) must be retained for as long as the pipeline remains in service.

Eagle Reserve did not maintain records of each test, survey, or inspection required by Subpart I in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition did not exist. More specifically, Eagle Reserve did not provide records to demonstrate that it inspected each pipeline or portion of pipeline that is exposed to the atmosphere, in accordance with §192.481(a), for evidence of atmospheric corrosion.

At the time of the inspection, the PHMSA inspector requested Eagle Reserve's corrosion control records for its LPG master systems. The Eagle Reserve representative informed the PHMSA inspector that Eagle Reserve did not have the requested corrosion control records.

4. §192.603 General provisions.

(a) ...

(b) **Each operator shall keep records necessary to administer the procedures established under §192.605.**

Eagle Reserve did not keep records necessary to administer the procedures established under §192.605 that pertain to its LPG master meter pipeline systems. Specifically, Eagle Reserve did not keep the records demonstrating that it:

- Reviewed and updated, in accordance with §192.605(a), its manual at intervals not exceeding 15 months, but at least once each calendar year.
- Made, in accordance with §192.605(b)(3), construction records, maps, and operating history available to appropriate operating personnel
- Provided, in accordance with §192.614(c)(3), a means of receiving and recording notification of planned excavation activities.
- Trained, in accordance with §192.615(b)(2), the appropriate operating personnel to assure that they were knowledgeable of the emergency procedures and verified that the training was effective.
- Established and maintained, in accordance with §192.615(c), liaison with appropriate fire, police, and other public officials.
- Provided, in accordance with §192.616(j), its customers public awareness messages twice annually.
- Operated, in accordance with §192.621(a), its high pressure distribution system at a pressure that did not exceed the maximum allowable operating pressure established under §192.621.
- Assured, in accordance with §192.625(f), the proper concentration of odorant by:
 - Receiving written verification from their gas source that the gas had the proper concentration of odorant; and
 - Conducting periodic "sniff" tests at the extremities of the system to confirm that the gas contained odorant.
- Patrolled, in accordance with §192.721(b)(2), its mains at intervals not exceeding 7½ months, but at least twice each calendar year.
- Leak surveyed, in accordance with §192.723(b)(2), its systems, with leak detector equipment, as frequently as necessary, but at least once every 5 calendar years at intervals not exceeding 63 months.
- Checked and serviced, in accordance with §192.747(a), each valve, the use of which may have been necessary for the safe operation of its distribution systems at intervals not exceeding 15 months, but at least once each calendar year.

At the time of the inspection, the PHMSA inspector requested Eagle Reserve's operations and maintenance records for its Eagle Reserve LPG master meter systems. The Eagle Reserve representative informed the PHMSA inspector that Eagle Reserve did not have the requested operations and maintenance records.

5. §192.605 Procedural manual for operations, maintenance, and emergencies.

(a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

Eagle Reserve failed to prepare and follow, for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. The manual required by paragraph 192.605(a) should have included written procedures, as applicable to LPG master meter systems, in accordance with:

- §192.605(b)(1) for operating, maintaining, and repairing the pipeline in accordance with part 192 subpart L and subpart M.
- §192.605(b)(2) for controlling corrosion in accordance with the operations and maintenance requirements of part 192 subpart I.
- §192.605(b)(3) for making construction records, maps, and operating history available to appropriate operating personnel.
- §192.605(b)(4) for gathering of data needed for reporting incidents under Part 191 of this chapter in a timely and effective manner.
- §192.605(b)(8) for periodically reviewing the work done by operator personnel to determine the effectiveness, and adequacy of the procedures used in normal operation and maintenance and modifying the procedures when deficiencies are found.
- §192.605(b)(9) for taking adequate precautions in excavated trenches to protect personnel from the hazards of unsafe accumulations of vapor or gas, and making available when needed at the excavation, emergency rescue equipment, including a breathing apparatus and, a rescue harness and line.
- §192.605(b)(11) for responding promptly to a report of a gas odor inside or near a building, unless the operator's emergency procedures under § 192.615(a)(3) specifically apply to these reports.
- 192.615(b)(2) for training of the appropriate operating personnel to assure they are knowledgeable of the emergency procedures and verifying that the training is effective.
- 192.615(b)(3) for reviewing employee activities to determine whether the procedures were effectively followed in each emergency.

- 192.615(c) for establishing and maintaining liaison with appropriate fire, police and other public officials and utility owners.
- §192.605(e) for:
 - Continuing surveillance, in accordance with §192.613(a)
 - Emergency response, in accordance §192.615, notably:
 - Investigation of failures, in accordance with §192.617

At the time of the inspection, the PHMSA inspector requested Eagle Reserve's written procedures manual for operations, maintenance, and emergencies for its Eagle Reserve LPG master meter pipeline systems. The Eagle Reserve representative informed the PHMSA inspector that Eagle Reserve did not have a manual of written procedures for its pipeline systems.

6. §192.614 Damage prevention program.

(a) ...

(b) **An operator may comply with any of the requirements of paragraph (c) of this section through participation in a public service program, such as a one-call system, but such participation does not relieve the operator of responsibility for compliance with this section. However, an operator must perform the duties of paragraph (c)(3) of this section through participation in a one-call system, if that one-call system is a qualified one-call system. In areas that are covered by more than one qualified one-call system, an operator need only join one of the qualified one-call systems if there is a central telephone number for excavators to call for excavation activities, or if the one-call systems in those areas communicate with one another. An operator's pipeline system must be covered by a qualified one-call system where there is one in place. For the purpose of this section, a one-call system is considered a "qualified one-call system" if it meets the requirements of section (b)(1) or (b)(2) of this section.**

Eagle Reserve did not provide a means of receiving and recording notification of planned excavation activities in accordance with §192.614(c)(3) through participation in a qualified one-call system. Section 192.614(b) requires an operator's pipeline system to be covered by a qualified one-call system where there is one in place. Florida's Sunshine 811 is a qualified one-call system.

At the time of the inspection, the PHMSA inspector requested documentation to demonstrate that Eagle Reserve had registered its Eagle Reserve LPG master meter systems with Sunshine 811. The Eagle Reserve representative stated that Eagle Reserve did not have the requested documentation and that he was not aware of the damage prevention requirements.

7. §192.615 Emergency plans.

(a) **Each operator shall establish written procedures to minimize the hazard resulting from a gas pipeline emergency. [...]**

Eagle Reserve failed to establish written procedures to minimize the hazard resulting from a gas pipeline emergency. The written procedures required by paragraph 192.615(a) should have included procedures applicable to LPG master meter systems in accordance with:

- §192.615(a)(1) for receiving, identifying, and classifying notices of events which require immediate response by the operator.
- §192.615(a)(2) for establishing and maintaining adequate means of communication with appropriate fire, police, and other public officials.
- §192.605(a)(3) for making a prompt and effective response to a notice of each type of emergency, including gas detected inside or near a building, a fire or explosion near or directly involving a pipeline facility, or a natural disaster.
- §192.615(a)(4) for ensuring availability of personnel, equipment, tools, and materials, as needed at the scene of an emergency.
- §192.615(a)(5) for taking actions directed toward protecting people first and then property.
- §192.615(a)(6) for the emergency shutdown or pressure reduction in any section of pipeline system necessary to minimize hazards to life or property
- §192.615(a)(7) for making safe any actual or potential hazard to life or property.
- §192.615(a)(8) for notifying appropriate public officials of gas pipeline emergencies and coordinating with them both planned responses and actual responses during an emergency.
- §192.615(a)(9) for safely restoring any service outage.
- §192.615(a)(10) for beginning action under 192.617, if applicable, as soon after the end of the emergency as possible.

At the time of the inspection, the PHMSA inspector requested Eagle Reserve's written procedures for minimizing the hazard resulting from a gas pipeline emergency for its Eagle Reserve LPG master meter pipeline systems. The Eagle Reserve representative informed the OPS inspector that Eagle Reserve did not establish written procedures to minimize the hazard resulting from a gas pipeline emergency.

8. §192.616 Public awareness.

(a) ...

(j) Unless the operator transports gas as a primary activity, the operator of a master meter or petroleum gas system is not required to develop a public awareness program as prescribed in paragraphs (a) through (g) of this section. Instead the operator must develop and implement a written procedure to provide its customers public awareness messages twice annually. If the master meter or petroleum gas system is located on property the operator does not control, the operator must provide similar messages twice annually to persons controlling the property. The public awareness message must include:

- (1) A description of the purpose and reliability of the pipeline;**
- (2) An overview of the hazards of the pipeline and prevention measures used;**

- (3) Information about damage prevention;**
- (4) How to recognize and respond to a leak; and**
- (5) How to get additional information.**

Eagle Reserve did not develop and implement a written procedure to provide its customers public awareness messages twice annually.

At the time of the inspection, the PHMSA inspector requested Eagle Reserve's written procedure for providing its customers public awareness messages twice annually. The Eagle Reserve representative informed the PHMSA inspector that Eagle Reserve had not developed and implemented written procedures for providing its customers public awareness messages.

9. §192.707 Line markers for mains and transmission lines.

(a) Buried pipelines. Except as provided in paragraph (b) of this section, a line marker must be placed and maintained as close as practical over each buried main and transmission line:

- (1) At each crossing of a public road and railroad; and**
- (2) ...**

Eagle Reserve failed to place and maintain line markers as close as practical over each buried main at each crossing of a public road.

At the time of the inspection, the PHMSA inspector observed that there were no pipeline markers on Rosewood Way to indicate the location where the main crossed the public road.

10. §192.707 Line markers for mains and transmission lines.

(a) ...

(c) Pipelines aboveground. Line markers must be placed and maintained along each section of a main and transmission line that is located aboveground in an area accessible to the public.

Eagle Reserve failed to place and maintain line markers at locations where the main came above ground in areas accessible to the public.

At the time of the inspection, the PHMSA inspector observed locations at the Eagle Reserve LPG master meter systems, where the main came aboveground in areas accessible to the public, where Eagle Reserve had not placed and maintained line markers.

11. §192.805 Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

- (a) Identify covered tasks;**
- (b) Ensure through evaluation that individuals performing covered tasks are qualified;**

(c) Allow individuals that are not qualified pursuant to this subpart to perform a covered task if directed and observed by an individual that is qualified;

(d) Evaluate an individual if the operator has reason to believe that the individual's performance of a covered task contributed to an incident as defined in Part 191;

(e) Evaluate an individual if the operator has reason to believe that the individual is no longer qualified to perform a covered task;

(f) Communicate changes that affect covered tasks to individuals performing those covered tasks; and

(g) Identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed.

(h) After December 16, 2004, provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities; and

(i) After December 16, 2004, notify the Administrator or a state agency participating under 49 U.S.C. Chapter 601 if the operator significantly modifies the program after the Administrator or state agency has verified that it complies with this section.

Eagle Reserve did not have and follow a written qualification program.

At the time of the inspection, the PHMSA inspector requested Eagle Reserve's written qualification program for its Eagle Reserve LPG master meter systems. The Eagle Reserve representative informed the PHMSA inspector that Eagle Reserve did not have a written qualification program.

12. §192.807 Recordkeeping.

Each operator shall maintain records that demonstrate compliance with this subpart.

(a) ...

(b) **Records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five years.**

Eagle Reserve did not maintain records supporting the qualifications of individuals performing covered tasks.

At the time of the inspection, the PHMSA inspector requested the qualification records for individuals currently performing covered task on its pipeline systems. The Eagle Reserve representative informed the PHMSA inspector that Eagle Reserve did not have an Operator Qualification plan or records of any qualified individuals performing covered tasks.

13. §192.1015 What must a master meter or small liquefied petroleum gas (LPG) operator do to implement this subpart?

(a) General. No later than August 2, 2011 the operator of a master meter system or a small LPG operator must develop and implement an IM program that includes a written IM plan as specified in paragraph (b) of this section. The IM program for these pipelines should reflect the relative simplicity of these types of pipelines.

Eagle Reserve did not develop and implement a Distribution Integrity Management Plan (DIMP) by August 2, 2011. The DIMP required by paragraph (a) should have included procedures, in accordance with:

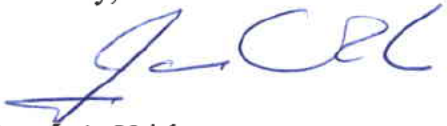
- §192.1015(b)(1), to demonstrate knowledge of its pipeline, which, to the extent known, should include the approximate location and material of the pipeline.
- §192.1015(b)(1), to identify additional information needed and provide a plan for gaining knowledge over time through normal activities conducted on the pipeline (for example, design, construction, operations or maintenance activities).
- §192.1015(b)(2), to consider, at minimum, the following categories of threats (existing and potential): Corrosion, natural forces, excavation damage, other outside force damage, material or weld failure, equipment failure, and incorrect operation.
- §192.1015(b)(3), to evaluate the risks to the pipeline and estimate the relative importance of each identified threat.
- §192.1015(b)(4), determine and implement measures designed to reduce the risks from failure of the pipeline.
- §192.1015(b)(5), monitor, as a performance measure, the number of leaks eliminated or repaired on its pipeline and their causes.
- §192.1015(b)(6), to determine the appropriate period for conducting IM program evaluations based on the complexity of the pipeline and changes in factors affecting the risk of failure.
- §192.1015(b)(6), to re-evaluate the entire program at least every five years and consider the results of the performance monitoring in these evaluations.

At the time of the inspection, the PHMSA inspector requested Eagle Reserve's DIMP for its Eagle Reserve LPG master meter systems. The Eagle Reserve representative informed the PHMSA inspector that Eagle Reserve did not have Distribution Integrity Management Plans for its systems.

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$205,638 per violation per day the violation persists up to a maximum of \$2,056,380 for a related series of violations. For violation occurring between January 4, 2012 to August 1, 2016, 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 conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to correct the item(s) identified in this letter. Failure to do so will result in Tzadik Brookside Apartments (formerly Eagle Reserve Apartments) 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 2-2016-0003W**. 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