

WARNING LETTER

VIA ELECTRONIC MAIL TO: andy.hesselbach@wecenergygroup.com,
jeffrey.westrick@wecenergygroup.com, rita.reed@wecenergygroup.com

April 19, 2024

Mr. Andy Hesselbach
President & Chief Executive Officer
Bluewater Gas Storage, LLC
231 W. Michigan St., PSB-P240
Milwaukee, WI 53203

CPF 3-2024-046-WL

Dear Mr. Hesselbach:

On March 24, August 14 through August 18, and October 10 through 12, 2023, representatives of the Michigan Public Service Commission (MIPSC), acting as an Interstate Agent for the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected Bluewater Gas Storage, LLC's (BGS) records and facilities in St. Clair and Macomb counties, Michigan.

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

1. **§ 192.465 External corrosion control: Monitoring and remediation.**
 - (a)
 - (d) Each operator shall take prompt remedial action to correct any deficiencies indicated by the monitoring.¹

¹ The readings taken and the PHMSA inspection were done before the new RIN 2 regulation came into effect. Originally, the effective date was May 24, 2023, but was subsequently delayed until February 24, 2024. See Notice of Limited Enforcement Discretion for New and Replaced Onshore Gas Transmission Pipelines, April 17, 2023, available at <https://www.phmsa.dot.gov/news/notice-limited-enforcement-discretion-new-and-replaced-onshore-gas-transmission-pipelines>. The original regulation cited above was in effect at the time of the records review of the cathodic protection.

BGS did not take prompt remedial action to correct deficiencies from the annual cathodic protection monitoring on the Kimball pipeline assets, per the requirements of § 192.465(d). PHMSA reviewed BGS's cathodic protection readings from 2021 to 2022 and found that multiple locations had readings that were below -0.85v for consecutive years. -0.85v is the threshold criteria BGS used to demonstrate compliance.

At the time of MIPSC's inspection, BGS indicated it had initiated a program prior to the inspection to remove or replace all of the old piping to and from the compressor station which it diagnosed as the source of the deficient readings. The new piping was to be designed and installed to have minimal cathodic protection isolation points to reduce the potential of shorts, and was intended to address the low cathodic protection levels at these facilities.

2. § 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;

BGS did not document decisions and/or any analyses used to implement and evaluate each element of the baseline assessment plan and integrity management program, per the requirements of § 192.947(d). Specifically, for its baseline assessments and the continual evaluations and assessments, BGS offered phone and email conversations that alluded to the validation of their inline inspection tool runs, but BGS was unable to provide records of the decisions made (such as the decision to accept the tool run results). Documentation of these decisions is a requirement of § 192.947(d) and must be maintained to demonstrate compliance to the regulation.

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$266,015 per violation per day the violation persists, up to a maximum of \$2,660,135 for a related series of violations. For violation occurring on or after January 6, 2023 and before December 28, 2023, the maximum penalty may not exceed \$257,664 per violation per day the violation persists, up to a maximum of \$2,576,627 for a related series of violations. For violation occurring on or after March 21, 2022 and before January 6, 2023, the maximum penalty may not exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,142 for a related series of violations. For violation occurring on or after May 3, 2021 and before March

21, 2022, the maximum penalty may not exceed \$225,134 per violation per day the violation persists, up to a maximum of \$2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021 and before May 3, 2021, the maximum penalty may not exceed \$222,504 per violation per day the violation persists, up to a maximum of \$2,225,034 for a related series of violations. For violation occurring on or after July 31, 2019 and before January 11, 2021, the maximum penalty may not 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.

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 items identified in this letter. Failure to do so will result in BGS 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 3-2024-046-WL**. 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,

Gregory A. Ochs
Director, Central Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

cc: Jeffrey Westrick, Asset Manager Bluewater Facilities, Bluewater Gas Storage, LLC,
jeffrey.westrick@wecenergygroup.com
Rita Reed, Engineering Specialist, Bluewater Gas Storage, LLC,
rita.reed@wecenergygroup.com