



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

901 Locust Street, Suite 480
Kansas City, MO 64106

WARNING LETTER

VIA ELECTRONIC MAIL TO: jbenning@duluthmn.gov; hsmith@duluthmn.gov

October 16, 2024

Jim Benning, Director
City of Duluth Public Works & Utilities
411 West First Street, Rm 240
Duluth, MN 55802

CPF 3-2024-074-WL

Dear Mr. Benning:

From August 12, 2024, through August 16, 2024, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected City of Duluth Public Works & Utilities' ("Duluth PWU") Gas transportation and Gas Distribution systems in St. Louis County, Minnesota and Douglas County, Wisconsin. Both headquarters and field inspections were completed.

As a result of the inspection, it is alleged that Duluth PWU has committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The item inspected and the probable violation is:

1. **§ 192.603 General provisions.**
 - (a)
 - (b) Each operator shall keep records necessary to administer the procedures established under § 192.605.**

Duluth PWU failed to keep records necessary to administer the procedures established under § 192.605. Specifically, Duluth PWU did not keep records of liaison with public officials in the state of Wisconsin, as required by § 192.615(c) for calendar year 2023, and for 2024 up until the time of PHMSA's August 2024 inspection. Emergency procedures and liaison with public officials, as described in § 192.615, is required by § 192.605(e). During the PHMSA inspection, Duluth PWU was unable to produce records showing that they had maintained liaison with public officials in Wisconsin. Thus, Duluth PWU violated § 192.603(b).

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 item identified in this letter. Failure to do so will result in City of Duluth Public Works & Utilities 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 3-2024-074-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: Howard Smith, Project Engineer, City of Duluth Public Works & Utilities,
hsmith@DuluthMN.gov