

City of Palo Alto

Utilities Department

SENT TO COMPLIANCE REGISTRY

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May 1, 2012

Mr. Chris Hoidal
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 Pipeline and Hazardous Materials Safety Administration
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CERTIFIED MAIL, RETURN RECEIPT REQUESTED**CONSOLIDATED RESPONSE TO: NOTICE OF PROBABLE VIOLATION AND PROPOSED COMPLIANCE ORDER – CPF 5-2012-0005****NOTICE OF AMENDMENT - CPF 5-2012-0006M**

Dear Mr. Hoidal:

On April 3, 2012, the City of Palo Alto (City) received two letters from the Pipeline and Hazardous Materials Safety Administration (PHMSA) regarding the results of an inspection of the City's Operator Qualification (OQ) Program conducted by PHMSA personnel at the City's offices on February 14-17, 2011. The first letter, titled Notice of Probable Violation and Proposed Compliance Order – CPF 5-2012-0005 (Notice), enumerated four Probable Violations and presented a Proposed Compliance Order to remediate the four Probable Violations and document and report costs associated with fulfilling the Proposed Compliance Order. The second letter, titled Notice of Amendment – CPF 5-2012-0006M, enumerated four additional Probable Violations and did not include a Proposed Compliance Order.

The City is committed to maintenance of a comprehensive and effective OQ Program and looks forward to working with PHMSA to address the matters identified in the Notice and Amendment. The following sections present the City's response to each Probable Violation and describe the actions the City proposes to take or has already taken to remediate the identified matters. The Notice will be addressed first, followed by the Amendment.

Notice of Probable Violation and Proposed Compliance Order – CPF 5-2012-0005

Probable Violation #1-N, §192.805(b) Qualification Program

The City does not contest the Compliance Order for this Probable Violation. PHMSA requests that the City modify the OQ Plan to identify task specific Abnormal Operating Conditions (AOC) and to require that all qualified individuals performing covered tasks recognize and react to these task specific AOC's. The City will revise the OQ Plan to include task specific AOC's for each covered task and amend the training content for each covered task to include recognition of and reaction to task specific AOC's.

Probable Violation #2-N §192.805(c) Qualification Program

The City completed the Compliance Order's requirements for this item on March 2nd, 2011. PHMSA requests that the City revise the OQ Plan to include a defined span of control whereby non-qualified individuals may perform covered tasks under observation and direction of a qualified individual. In response to comments made by the PHMSA inspector at the time of the OQ Inspection, the City updated the OQ Plan and issued a revised version in March 2011. (See Exhibit 1). The March 2011 Plan's Section 1.4.1, "When Non-Qualified Individuals May Perform a Covered Task", sets a span of control of four non-qualified individuals to one qualified individual. On March 2nd, 2011, Utilities Operations Manager Javad Ghaffari sent the March 2011 version to PHMSA staff. (See Exhibit 2). PHMSA staff acknowledged receipt of the revised OQ Plan on the same date. (See Exhibit 3). As the March 2011 version of the OQ Plan has been effective since March 2nd, 2011, the City has addressed and rectified Probable Violation #2-N.

Probable Violation #3-N §192.805(b) Qualification Program

The City completed the Compliance Order's requirements for this item on March 4, 2011. PHMSA asserts that for the period March 3 through October 27, 2010, nine individuals performed 41 fusion bonds without proper qualification. PHMSA requests that the City conduct a leak survey of the 41 fusion bond locations. During the February 2011 inspection, the City presented evidence that only three of the nine individuals were not properly qualified under the terms of the OQ Plan then in effect. The City agrees that five of the 41 fusion bonds were performed by non-qualified individuals and, in the interest of protecting system safety and integrity, the City dug up and completely removed and qualified personnel reinstalled all five fusion bonds in 2011. (See Exhibit 4). Further, during the normal course of distribution system operations, the City leak surveyed 20 of the 41 locations in 2011, and all remaining locations will be leak surveyed in 2012. Thus, as of March 4, 2011, the City addressed and rectified Probable Violation #3-N.

Probable Violation #4-N §192.805(d) Qualification Program

The City does not contest the Compliance Order for this Probable Violation. PHMSA observes that the OQ Plan does not include specific language that allows for the immediate suspension, pending evaluation of performance of the covered task, of an individual who performed a covered task that may have contributed to an incident. The City will amend Section 1.5.1 of the OQ Plan by adding the following sentence:

“The individual will be immediately suspended from performance of the covered task pending the outcome of the individual’s covered task performance evaluation.”

Documentation of Safety Improvement Costs

The City does not contest the Compliance Order’s requirements for this item. Item 6 of the Proposed Compliance Order requests the City to document and report the safety improvement costs associated with fulfilling the Proposed Compliance Order. 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 replacement, additions and other changes to pipeline infrastructure. The City agrees to supply this information as requested.

Notice of Amendment – CPF 5-2012-0006M

Probable Violation #1-A §192.805(a) Qualification Program

The City does not contest this Probable Violation. PHMSA requests that the City add “excavation” as a covered task to the OQ Plan. Following the process contained in the OQ Plan, the City will amend the OQ Plan to add “excavation” to the list of covered tasks.

Probable Violation #2-A §192.805(b) Qualification Program

The City does not contest this Probable Violation. PHMSA observes that the OQ Plan is not specific on how the various qualification methods will be used and that there is no information regarding the written or oral exam process including prerequisites, training materials, who administers the exam or passing requirements. PHMSA requests that the OQ Plan be expanded to add specific processes identifying details that clarify the steps personnel need to follow to become qualified. The City agrees to expand the OQ Plan as requested.

Probable Violation #3-A §192.805(g) Qualification Program

The City does not contest this Probable Violation. PHMSA notes that the OQ Plan (Section 1.2.6.1) refers to a requalification interval not to exceed five

years for covered tasks while Part IV, Appendix D (of the December 2010 version of the OQ Plan) refers to requalification intervals of annual, 24 or 36 months. Appendix D was modified in the March 2011 version to have a not to exceed five year requalification interval for all covered tasks. The City will modify the OQ Plan to identify a specific requalification interval for each covered task (annual, 24 or 36 month interval)

Probable Violation #4-A §192.805(h) Qualification Program

The City does not contest this Probable Violation. PHMSA states that the OQ Plan has no training provisions for initial and/or requalification of individuals performing covered tasks and that, while training is addressed by reference in several places, there are no specific methods or procedures for training provided. Because Probable Violation #4-A appears closely related to Probable Violation #2-A, the City will address Probable Violation #4-A in the OQ Plan expansion which will be completed as part of the City's remediation of Probable Violation #2-A.

The City requests clarification of one procedural matter. The Notice, in the Proposed Compliance Order – Item 5, gives the City 60 days after receipt of a Final Order to complete remediation of Probable Violations #1-N through #4-N. The Amendment gives the City 60 days from receipt of the Amendment to submit amended procedures remediating Probable Violations #1-A through #4-A. These time periods are different. The City requests that PHMSA issue a single Final Order that includes all eight Probable Violations and the request for cost information, and which asks that all items be completed no later than 60 days after receipt of the Final Order.

The City expects that the actions already taken and proposed, will, when complete, fully remediate all the identified Probable Violations. I want to reiterate that it is the City's policy to work effectively with its regulators to resolve matters in contention. If you need further information or have any questions, please contact me or the Utilities Compliance Manager, Eric Scott (at 650-566-5443 or eric.scott@cityofpaloalto.org).

Sincerely,



Valerie O. Fong
Utilities Director

Exhibits

cc: James Keene, City Manager
Molly Stump, City Attorney