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

1200 New Jersey Avenue SE
Washington DC 20590

JUN 0 1 2018

Mr. Dan Newton
Public Works Director
City of Susanville
720 South Street
Susanville, CA 96130

Re: CPF No. 5-2016-0004

Dear Mr. Newton:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and specifies actions that need to be taken by the City of Susanville to comply with the pipeline safety regulations. When the terms of the compliance order have been completed, as determined by the Director, Western Region, this enforcement action will be closed. Service of the Final Order by certified mail is effective upon the date of mailing as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Director, Western Region, Office of Pipeline Safety, PHMSA

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590

In the Matter of	)	
City of Susanville, a municipal corporation,	)	**CPF No. 5-2016-0004**
Respondent.	)	

FINAL ORDER

On December 15-17, 2015, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of the City of Susanville (Susanville or Respondent) in Susanville, California. Susanville operates a 6-inch diameter gas pipeline approximately 10 miles in length along with the city's gas distribution system.[1]

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated June 7, 2016, a Notice of Probable Violation and Proposed Compliance Order (Notice), which also included a warning pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that the City of Susanville had committed eight violations of 49 C.F.R. Part 192 and proposed ordering Respondent to take certain measures to correct four of the alleged violations. The warning items required no further action, but warned Respondent to correct the alleged violations or face possible enforcement action.[2]

Susanville responded to the Notice by letter dated July 12, 2016, as supplemented by letter dated December 29, 2016 (Response). Susanville contested the allegations on legal grounds and requested a hearing. A hearing was subsequently held on January 11, 2017 in Lakewood, Colorado, with an attorney from the Office of Chief Counsel, PHMSA, presiding. After the hearing, Respondent provided a post-hearing submission for the record, by letter dated February 21, 2017 (Closing).

[1] Pipeline Safety Violation Report (Violation Report), (May 15, 2015) (on file with PHMSA), at 1.

[2] OPS simultaneously issued a Notice of Amendment (NOA) proposing to require Susanville to amend certain of its written operating and maintenance procedures (CPF No. 5-2016-0005M). An Order Directing Amendment for that proceeding is being issued simultaneously with this Final Order.

CLASSIFICATION OF RESPONDENT'S PIPELINE

Susanville operates a 6-inch diameter pipeline that transports natural gas approximately 10 miles from the Tuscarora Gas Transmission Company (Tuscarora) custody transfer point (at corner of Chappius Lane and Lassen County Road A27) to the City Gate station (corner of A27 and San Francisco Street). The pipeline is constructed of grade X42 steel pipe with a 0.212-inch wall thickness. It has an established maximum allowable operating pressure (MAOP) of 1000 psi and normally operates at approximately 350 psi. The line serves a power plant and a state correctional facility upstream of the City Gate.

The alleged violations in the Notice are based on a determination by OPS that the subject pipeline was a transmission pipeline subject to the Part 192 requirements for transmission pipelines. At the hearing, OPS explained that it had informed Susanville during inspections conducted in the 2011-2012 period that the line was a transmission line. On March 12, 2015, Susanville also received a written interpretation from PHMSA pursuant to its request under § 190.11 determining that the subject pipeline was a transmission line.[3]

In its Response and at the hearing, Susanville contested the Notice, contending that the pipeline is not a transmission line, but rather is a distribution main line. The parties agree that all of the alleged violations in the Notice rest on this single issue: whether the subject pipeline is a distribution line or a transmission line.

Analysis

The terms Distribution line and Transmission line are defined in 49 C.F.R. § 192.3 as follows:

> *Distribution line* means a pipeline other than a gathering or transmission line.
>
> *Transmission line* means a pipeline, other than a gathering line, that: (1) Transports gas from a gathering line or storage facility to a distribution center, storage facility, or large volume customer that is not down-stream from a distribution center; (2) operates at a hoop stress of 20 percent or more of SMYS; or (3) transports gas within a storage field.
> Note: A large volume customer may receive similar volumes of gas as a distribution center, and includes factories, power plants, and institutional users of gas.

A pipeline meets the regulatory definition of a transmission line if it meets any one of the three prongs set forth in the definition. OPS contended that the pipeline was a transmission line because it met two of the three prongs. OPS stated that the pipeline met the first prong in that it transported gas to a large volume customer that is not down-stream from a distribution center, and met the second prong in that it operates at a hoop stress of 20 percent or more of specified minimum yield strength (SMYS). Susanville disagreed with OPS and argued that neither of the

[3] PHMSA Interp. No. 13-0010 (Mar. 12, 2015).

two prongs OPS pointed to were met. In making my determination, I will apply these two prongs of the definition to Susanville's pipeline separately.

First Prong. The first prong involves a determination on whether the pipeline transports gas to a large volume customer that is not down-stream from a distribution center.

The line serves a power plant and a state correctional facility upstream of the City Gate. It is well settled that lateral pipelines that extend from another transmission line to a large volume customer or distribution center such as a town gate station are transmission lines.[4] The transmission line definition explicitly states that large volume customers include power plants and institutional users of gas.[5] Respondent further argued that it does not consider the power plant and correctional facility as customers because they do not purchase gas from the City of Susanville. Although Respondent does not sell gas to its large volume customers, it sells a service to them. Specifically, Respondent is paid to transport gas from the Tuscarora Pipeline to the prison and power plant. Therefore, the prison and the power plant are customers of the City of Susanville.[6]

Susanville also argued that the power plant and the correctional facility were downstream of a "distribution center" which, if correct, would negate a transmission line designation under this prong of the definition. Section 192.3 does not contain a definition of a distribution center, but the term is generally understood to mean the point where an incoming gas pipeline branches into a lower pressure network of distribution lines that provide gas service to customers.[7] Respondent further argued that it believed its position was supported by a Notice of Proposed Rulemaking (NPRM) issued by PHMSA in 2016 that proposed adding a definition of distribution center to § 192.3.[8] This NPRM proposed defining a distribution center as a location where "gas volumes are either metered or have pressure or volume reductions prior to delivery to customers." However, this proposed definition appears to refer to typical gas utility customers such as homes and businesses because it did not use the term large volume customers. The proposition that the word "customers" in this proposed definition of "distribution center" should include large volume customers would be inconsistent with the longstanding regulatory definition of "transmission line" which expressly includes lines serving large volume customers. In any event this NPRM has not become a final rule. In this instance, the location where a network of distribution lines that serves as the distribution center delivering gas service to

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[4] *See, e.g., Southern Star Central Gas Pipeline, Inc.*, Final Order, CPF No. 3-2008-1005 (Oct. 21, 2011).

[5] In a prior PHMSA Letter of Interpretation, the agency stated that ". . . the maintenance and operating requirements for a pipeline supplying a power plant are consistent with other transmission pipelines, not service lines in a distribution system. PHMSA Interpretation No. 09-0022 (Mar. 8, 2010).

[6] During the hearing, Respondent also noted that the definition of transmission line uses the singular term "large volume customer," while its line serves two large volume customers. However, the rules of regulatory construction at § 192.15(b)(1) state that "in this part, words importing the singular include the plural."

[7] Letter from Edward J. Ondak, Director, Office of Pipeline Safety, to David Sinclair, Vice President of Operations, Enstar Natural Gas Company, CPF No. 58014W, 1998 WL 35166442 (Aug. 21, 1998).

[8] *Pipeline Safety: Safety of Gas Transmission and Gathering Lines*, (81 Fed. Reg. 20807). This NPRM has not become a final rule.

customers is the Susanville City Gate station at the downstream end of the 10-mile segment. Therefore, Respondent's pipeline serves two large volume customers that are not downstream from a distribution center and the first prong is met.

Second Prong. The second prong involves a determination on whether the pipeline operates at a hoop stress of 20 percent or more of SMYS. The formula used to calculate hoop stress in the wall of a pipeline is as follows:

$$S = PD/2t$$

where: S = hoop stress, psi
P = internal pressure, psi
D = diameter, in.
t = wall thickness, in.[9]

OPS stated that the hoop stress of Respondent's 10 mile, 6-inch steel pipeline segment is calculated as follows:

$$S = (1000 \times 6.625)/2(0.219) = 15,125.57$$

This number is then divided by SMYS (42,000) and turned into a percentage as follows:

$$15,125.57 / 42,000 = 0.36 \times 100 = 36\%$$

OPS stated that the internal pressure of the pipe (P variable) is the established MAOP of the line, which in this case is 1000 psi. Because the line can operate up to a pressure of 1000 psi, OPS stated that this is the number that must be used to calculate the hoop stress of the line.[10]

Respondent, however, argued that MAOP need not be used to calculate the hoop stress of the line. Rather, it believes that it should be allowed to use the pressure actually being experienced in the line for this calculation. Respondent stated that the line is normally operated at approximately 350 psi, and that a pilot regulator caps pressure at 450 psi. Respondent stated that the pipeline can never operate above 20 percent SMYS because the system is currently configured only to physically operate at 450 psi which corresponds to 16.2 percent SMYS. Respondent argued that its position was supported by the above referenced NPRM issued by PHMSA in 2016 since it proposed a modification to the § 192.3 definition of the term "Transmission line" to expressly include the term MAOP in the language of this prong as opposed to "operates at…"

I find Respondent's argument unpersuasive and conclude that it would be unworkable in practice. As OPS noted, the MAOP of a pipeline and the percent SMYS calculation are linked in Part 192. Pipeline components such as pilot regulators and pressure regulators are designed and evaluated to a design standard in accordance with § 192.619(a)(1). In this instance, the

[9] This formula is reflected in the design formula regulations at § 192.105.

[10] Region Recommendation, at 3.

components installed at the Chapious Lane receipt point are all designed to ANSI 600 class, including the pilot regulator. The design pressure of ANSI 600 components is 1440 psi. The spring inside the pilot regulator limiting the downstream pressure to 450 psi does not affect the component design pressure of 1440 psi or its ANSI 600 rating. The spring can be changed at the discretion of the operator to change the actual pressure without changing the MAOP of the pipeline. These springs are used in pilot regulators of all applicable ANSI classes. Therefore, although the pilot regulator may limit the pressure of the line, this does not affect the MAOP.[11]

Prior PHMSA pipeline enforcement proceedings and interpretations make it clear that the established MAOP, not the current actual operating pressure, is used for regulatory classification purposes.[12] For example, PHMSA issued an Interpretation Letter stating that a pipeline that delivered gas to a large volume customer qualified as a transmission line despite the fact that the pipeline actually operated at less than 20% of SMYS.[13] If actual operating pressure could be used, there would be nothing stopping an operator from easily configuring its line to raise the pressure as high as the established MAOP at times and lower it at other times causing uncertainty in the classification and affecting the applicability of various maintenance requirements. Thus, for purposes of classification as a line that operates above or below 20 percent SMYS, operators must use the established MAOP for the pipeline when determining the hoop stress. If an operator wants to de-rate or lower its MAOP for whatever reason, it would need to be done in a permanent manner reflected in its written procedures and design plans.

With regard to Respondent's argument that its position was supported by the NPRM issued by PHMSA in 2016, the preamble reveals that the impetus for proposing a change to the Transmission line definition was to address the demarcation between transmission and gathering lines, not between transmission and distribution lines.[14] While the NPRM was silent on the reason for this particular proposed change to this prong (*i.e.*, replacing "operates at…" with the term MAOP), if anything the absence of discussion implies that this was a clarification to existing policy and practice as opposed to being needed to drive a significant change in behavior. Therefore, Respondent's pipeline operates at a hoop stress above 20 percent SMYS for purposes of classification and the second prong in the definition of transmission line is met.

In sum, the subject pipeline is a transmission line because although it need only fall under one prong of the definition to be classified as a transmission line, it falls under the first and second prongs of the definition of "Transmission line" in 49 C.F.R. §192.3. Based on the foregoing, I find that OPS established that the 10-mile pipeline is a transmission line.

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[11] Region Recommendation, at 3-4.

[12] *See, e.g., Breitburn Energy Partners, LP*, Final Order, CPF No. 5-2009-0008 (Apr. 2, 2012).

[13] PHMSA Interp. No. 01-0102 (Feb. 15, 2001).

[14] *Pipeline Safety: Safety of Gas Transmission and Gathering Lines*, (81 Fed. Reg. 20807). This NPRM has not become a final rule.

FINDINGS OF VIOLATION

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 191.17(a), which states:

> **§ 191.17 Transmission systems; gathering systems; liquefied natural gas facilities; and underground natural gas storage facilities: Annual report.**
> (a) Transmission or Gathering. Each operator of a transmission or a gathering pipeline system must submit an annual report for that system on DOT Form PHMSA 7100.2.1. This report must be submitted each year, not later than March 15, for the preceding calendar year, except that for the 2010 reporting year the report must be submitted by June 15, 2011.

The Notice alleged that Respondent violated 49 C.F.R. § 191.17(a) by failing to submit an annual report for a transmission pipeline system. Specifically, the Notice alleged that Susanville failed to submit the annual report by March 15, 2014.

In its Response and at the hearing, Susanville acknowledged that if the pipeline is determined to be a transmission line, the facts as alleged establish a violation.

Accordingly, after considering all of the evidence and the legal issues presented, I find that Respondent violated 49 C.F.R. § 191.17(a) by failing to submit an annual report for a transmission pipeline system.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.907(a), which states:

> **§ 192.907 What must an operator do to implement this subpart?**
> (a) *General.* No later than December 17, 2004, an operator of a covered pipeline segment must develop and follow a written integrity management program that contains all the elements described in §192.911 and that addresses the risks on each covered transmission pipeline segment. The initial integrity management program must consist, at a minimum, of a framework that describes the process for implementing each program element, how relevant decisions will be made and by whom, a time line for completing the work to implement the program element, and how information gained from experience will be continuously incorporated into the program. The framework will evolve into a more detailed and comprehensive program. An operator must make continual improvements to the program.

The Notice alleged that Respondent violated 49 C.F.R. § 192.907(a) by failing to develop and follow a written integrity management program for a transmission pipeline. Specifically, the Notice alleged that Susanville did not have a written integrity management program that contained the elements described in § 192.911.

In its Response and at the hearing, Susanville acknowledged that if the pipeline is determined to be a transmission line, the facts as alleged establish a violation.

Accordingly, after considering all of the evidence and the legal issues presented, I find that Respondent violated 49 C.F.R. § 192.907(a) by failing to develop and follow a written integrity management program for a transmission pipeline.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.611(d), which states:

> **§ 192.611 Change in class location: Confirmation or revision of maximum allowable operating pressure.**
>
> (a) ...
>
> (d) Confirmation or revision of the maximum allowable operating pressure that is required as a result of a study under §192.609 must be completed within 24 months of the change in class location. Pressure reduction under paragraph (a) (1) or (2) of this section within the 24-month period does not preclude establishing a maximum allowable operating pressure under paragraph (a)(3) of this section at a later date.

The Notice alleged that Respondent violated 49 C.F.R. § 192.611(d) by failing to have written procedures for timely confirmation or revision of maximum allowable operating pressure (MAOP) that is required as a result of a study under § 192.609. Specifically, the Notice alleged that section B-14 of Susanville's written procedures did not provide for the confirmation or revision of MAOP within 24 months of a class location change.

In its Response and at the hearing, Susanville acknowledged that if the pipeline is determined to be a transmission line, the facts as alleged establish a violation.

Accordingly, after considering all of the evidence and the legal issues presented, I find that Respondent violated 49 C.F.R. § 192.611(d) by failing to have written procedures for timely confirmation or revision of MAOP that is required as a result of a study under § 192.609.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 192.805, which states:

> **§ 192.805 Qualification program.**
>
> Each operator shall have and follow a written qualification program.

The Notice alleged that Respondent violated 49 C.F.R. § 192.805 by failing to follow its written qualification program. Specifically, the Notice alleged that following the termination of a contract with a third party Operator Qualification (OQ) vendor, Susanville no longer had OQ training and evaluation materials, covered task list documentation, reevaluation interval information for use by its in-house staff. Respondent did not contest this allegation of violation. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.805 by failing to follow its written qualification program.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1, 2, 3, and 4 in the Notice for violations of 49 C.F.R. §§ 191.17(a), 192.907(a), 192.611(d), and 192.805, respectively. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601.

Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 191.17(a) (**Item 1**), Respondent must file annual reports for 2014, 2015, and 2016 within 90 days of receipt of this order.

2. With respect to the violation of § 192.907(a) (**Item 2**), Respondent must develop and implement a written integrity management program for its transmission pipeline within 180 days following receipt of this order.

3. With respect to the violation of § 192.611(d) (**Item 3**), Respondent must revise its written procedures to include procedures for timely confirmation or revision of MAOP that is required as a result of a study under § 192.609 within 180 days following receipt of this order.

4. With respect to the violation of § 192.805 (**Item 4**), Respondent must establish and follow written procedures for a qualification program that complies with applicable requirements within 180 days of receipt of this order.

5. It is requested (not mandated) that Susanville maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Director, Western Region, Pipeline and Hazardous Materials Safety Administration. 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 replacements, additions and other physical changes to pipeline facilities.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed $200,000, as adjusted for inflation (49 C.F.R. § 190.223), for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

WARNING ITEMS

With respect to Items 5, 6, 7 and 8, the Notice alleged probable violations of Part 192 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 192.63 **(Item 5)** — Respondent's alleged failure to have written procedures implementing the applicable materials marking requirements;

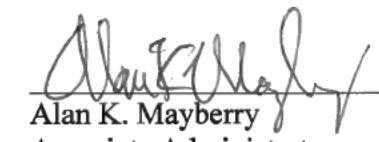
49 C.F.R. § 192.615(b)(3) **(Item 6)** — Respondent's alleged failure to have written procedures for reviewing employee activities after each emergency to determine whether its emergency procedures were effectively followed;

49 C.F.R. § 191.29 **(Item 7)** — Respondent's alleged failure to have written procedures for submitting annually required asset information to the National Pipeline Mapping System; and

49 C.F.R. § 191.22(c) **(Item 8)** — Respondent's alleged failure to have written procedures for notifying PHMSA of certain specified events and changes to its facilities.

Susanville presented information in its Response showing that it intends to take action to address the cited items. If OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address, no later than 20 days after receipt of service of this Final Order by Respondent. Any petition submitted must contain a statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The terms of the order, including corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.



Alan K. Mayberry
Associate Administrator
for Pipeline Safety

JUN 0 1 2018

Date Issued