



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

1200 New Jersey Ave., S.E.
Washington, DC 20590

AUG 24 2017

Mr. Donald R. Macpherson, Jr.
President and Chief Executive Officer
Macpherson Oil Company
100 Wilshire, Suite 800
Santa Monica, CA 90401

Re: CPF No. 5-2016-0016

Dear Mr. Macpherson:

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 Macpherson Oil Company 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 deemed effective upon the date of mailing, or as otherwise 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
Mr. Tim Lovley, Director HSE, Macpherson Oil Company, P.O. Box 5368, Bakersfield,
CA 93388

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

¹ Pipeline Safety Violation Report (Sept. 7, 2016) (on file with PHMSA), at 1. *See also*, <http://www.macphersonenergy.com> (last accessed July 20, 2017).

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.13(c), which states in relevant part:

§ 192.13 What general requirements apply to pipelines regulated under this part?

(a) No person may operate a segment of pipeline [after March 12, 1971] unless:

(1) The pipeline has been designed, installed, constructed, initially inspected, and initially tested in accordance with this part

(c) Each operator shall maintain, modify as appropriate, and follow the plans, procedures, and programs that it is required to establish under this part.

The Notice alleged that Respondent violated 49 C.F.R. § 192.13(c) by failing to maintain the plans and programs it was required to establish under Part 192 for its Kern County Gas Line, which was constructed and placed into service in 1998. The Federal pipeline safety regulations in § 192.13(a)(1) required the Kern County Gas Line to be designed, installed, constructed, initially inspected, and initially tested in accordance with the applicable regulations in Part 192. Section 192.13(c) required the operator to maintain the plans, procedures, and programs it used to design, install, construct, initially inspect, and initially test its pipeline in accordance with Part 192.

Specifically, the Notice alleged that during the inspection when the OPS inspector queried Macpherson personnel about the construction, installation, initial inspection, and initial testing of the Kern County Gas Line, Respondent did not provide any records or any other documentation to demonstrate compliance with § 192.13(c).

Because Macpherson did not maintain all the plans and programs it was required to establish under Part 192 for the Kern County Gas Line, it was unable to document that (1) the pipeline was welded using a qualified welding procedure(s) per § 192.225(a); or (2) each welding procedure was recorded in detail, including the results of the qualifying tests, and the record was retained and followed whenever the procedure was used per § 192.225(b). Further, Macpherson could not document that: (3) the welders were qualified in accordance with the appropriate referenced standard(s) per § 192.227(a); (4) pipeline welds were visually inspected by a qualified individual per § 192.241(a); (5) pipeline welds were nondestructively tested in accordance with § 192.243; or (6) the pipeline was initially installed with the minimum cover required by § 192.327.

Respondent did not contest these allegations of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.13(c) by failing to maintain the plans and programs it was required to establish under Part 192 for the Kern County Gas Line.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.615(a), which states:

§ 192.615 Emergency plans.

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

The Notice alleged that Respondent violated 49 C.F.R. § 192.615(a) by failing to establish written procedures to minimize the hazard resulting from a gas pipeline emergency. During the inspection, Macpherson failed to provide the OPS inspector with any written emergency procedures for its Kern County Gas Line.

In its Response, Macpherson did not contest the allegation and explained that it had updated its manual of written procedures during the June 2015 OPS inspection, and had subsequently provided a copy of the revised manual, dated September 6, 2016. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.615(a) by failing to establish written procedures for minimizing the hazard resulting from a gas pipeline emergency.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 192.705(b), which states:

§ 192.705 Transmission lines: Patrolling.

(a) Each operator shall have a patrol program to observe surface conditions on and adjacent to the transmission line right-of-way for indications of leaks, construction activity, and other factors affecting safety and operation.

(b) The frequency of patrols is determined by the size of the line, the operating pressures, the class location, terrain, weather, and other relevant factors, but intervals between patrols may not be longer than prescribed in the following table:

Class location of line	Maximum interval between patrols	
	At highway and railroad crossings	At all other places
1; 2	7½ months; but at least twice each calendar year	15 months; but at least once each calendar year.
3	4½ months; but at least four times each calendar year	7½ months; but at least twice each calendar year.
4	4½ months; but at least four times each calendar year	4½ months; but at least four times each calendar year.

The Notice alleged that Respondent violated 49 C.F.R. § 192.705(b) by failing to patrol its Kern County Gas Line at a frequency determined by the size of the line, the operating pressures, the class location, terrain, weather, and other relevant factors, but with intervals between patrols not being longer than prescribed in the above table. Specifically, the Notice alleged that the pipeline was located entirely within a Class 1 location and that Respondent failed to patrol it at least once each calendar year, with intervals not exceeding 15 months, since 1998.

In its Response, Macpherson submitted its right-of-way procedures and reports from September 20, 2016; June 11, 2015; July 29, 2014; May 7, 2013; and May 29, 2012, but did not submit documentation to demonstrate the pipeline had been patrolled prior to 2012. Accordingly, I find that Respondent violated 49 C.F.R. § 192.705(b) by failing to patrol its pipeline at the required intervals.

Item 5: The Notice alleged that Respondent violated 49 C.F.R. § 192.739(a), which states:

§ 192.739 Pressure limiting and regulating stations: Inspection and testing.

(a) Each pressure limiting station, relief device (except rupture discs), and pressure regulating station and its equipment must be subjected at intervals not exceeding 15 months, but at least once each calendar year, to inspections and tests to determine that it is—

- (1) In good mechanical condition;
- (2) Adequate from the standpoint of capacity and reliability of operation for the service in which it is employed;
- (3) Except as provided in paragraph (b) of this section, set to control or relieve at the correct pressure consistent with the pressure limits of § 192.201(a); and
- (4) Properly installed and protected from dirt, liquids, or other conditions that might prevent proper operation.

The Notice alleged that Respondent violated 49 C.F.R. § 192.739(a) by failing to inspect and test the pressure limiting relief device on its Kern County Gas Line at intervals not exceeding 15 months, but at least once each calendar year, to determine that it was in good mechanical condition, adequate from the standpoint of capacity and reliability of operation for the service in which it is employed, set to control or relieve at the correct pressure consistent with the pressure limits of § 192.201(a), and properly installed and protected from dirt, liquids, or other conditions that might prevent proper operation.

Specifically, the Notice alleged that during the inspection, the OPS inspector observed that the Kern County Gas Line was connected to an upstream gas pipeline. The inspector observed a pressure-relief device on the Kern County Gas Line that was set to relieve pressure. While there is a relief device installed on the Kern County Gas Line, it is located in a fenced-in area controlled by the upstream gas provider. Respondent allegedly did not have access to the relief device and did not inspect or test it.

According to the Notice, Respondent relied on the gas provider's personnel to perform these functions, but Respondent's personnel did not witness the inspections or testing of the relief device. Furthermore, the Notice alleged that Respondent did not provide any records, as required by § 192.709(c), to show that the relief device was inspected or tested at the required intervals. According to the Notice, Respondent also did not provide any records as required by § 192.807 to show that the gas provider's personnel were Operator Qualified to perform this covered task on the Kern County Gas Line. Lastly, Respondent allegedly did not provide any written documents to show that it had an agreement with the gas provider to inspect and test the relief device.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.739(a) by failing to inspect and test the pressure limiting relief device on its Kern County Gas Line at intervals not exceeding 15 months, but at least once each calendar year.

Item 6: The Notice alleged that Respondent violated 49 C.F.R. § 192.745(a), which states:

§ 192.745 Valve maintenance: Transmission lines.

(a) Each transmission line valve that might be required during any emergency must be inspected and partially operated at intervals not exceeding 15 months, but at least once each calendar year.

The Notice alleged that Respondent violated 49 C.F.R. § 192.745(a) by failing to inspect and partially operate the transmission line valves on its Kern County Gas Line that might be required during an emergency, at intervals not exceeding 15 months but at least once each calendar year. Specifically, the Notice alleged that Respondent had not inspected or partially operated the valves since the line was placed into service in 1998.

In its Response, Macpherson stated that it had procedures for the valve inspections and had performed the required manual valve operation and inspections on September 2, 2015, and September 20, 2016. Respondent did not submit documentation to demonstrate the valves had been inspected and partially operated at least once each calendar year prior to 2015. Accordingly, I find that Respondent violated 49 C.F.R. § 192.745(a) by failing to inspect and partially operate the valves at the requisite intervals.

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, 3, 4, 5, and 6 in the Notice for violations of 49 C.F.R. §§ 192.13(c), 192.615(a), 192.705(b), 192.739(a), and 192.745(a), 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.

The Director has indicated that Macpherson submitted the required written procedures and records to demonstrate that appropriate action has been taken to ensure compliance with the violations cited in Items 3, 4, and 6. Macpherson also provided additional information to show that the actions required under Item 1(c) of the Proposed Compliance Order had been satisfied. Therefore, it is not necessary to include compliance actions associated with these Items in this Final Order.

Macpherson provided additional information on the actions it had taken to address Items 1 and 5 for the violations of §§ 192.13(c) and 192.739(a), respectively, and requested that certain changes be made to those provisions in the Compliance Order. I have considered these suggestions and modified those items as set forth below.

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 § 192.13(c) (**Item 1**), Macpherson must develop a written Fitness for Service (FFS) plan to assess the condition of the pipeline system to demonstrate its safety and integrity. Macpherson must submit the written FFS to the Director, Western Region, OPS, for review and approval within 90 days of the date of issuance of the Final Order. At a minimum, the FFS must include the following:

a. Girth Welds

- i. Destructive Testing – cut out at least one in-line girth weld and destructively test it in accordance with § 192.225 to establish the strength of the weld.
- ii. Nondestructive Testing – write a nondestructive testing (NDT) procedure in accordance with § 192.243 to NDT girth welds. Excavate and NDT: at least 40 girth welds equally spaced along the entire pipeline; all tie-in girth welds made after the post-construction pressure testing in 1998; and all known fabricated and station girth welds.
- iii. Repair or replace all girth welds that fail the NDT. For every girth weld repaired or replaced, excavate and NDT one additional girth weld.
- iv. Hydrotest the entire pipeline in accordance with the requirements in Part 192 if more than three girth welds fail the NDT.

b. Depth of Cover

- i. Perform a Direct Current Voltage Gradient (DCVG) survey and depth of cover survey over the entire pipeline. Repair all coating anomalies found during the DCVG survey that are classified as “moderate” (i.e., 35% IR and above) or “severe,” based on NACE International Standard Practice 0502-2010, *“Pipeline External Corrosion Direct Assessment Methodology”* (NACE SP 0502-2010) (incorporated by reference, see § 192.7). A minimum of two coating survey assessment classifications must be excavated, classified and/or remediated per each survey crew each time the survey is performed.
- ii. Conduct spot checks over the entire pipeline, remediate any cover depths that do not meet the requirements in § 192.327, and submit dig reports that show depth-cover.

2. With respect to the violation of § 192.739(a) (**Item 5**), Respondent must:

- a. Prepare (or amend) and follow written test and inspection procedures for the pressure limiting device on its Kern County Gas Line to ensure it is tested and inspected in accordance with § 192.739. Submit the written procedures to the Director within 120 days of the date of issuance of the Final Order.
- b. Test and inspect the pressure limiting device on the Kern County Gas Line within 30 days of the date of issuance of the Final Order. Submit records or other documentation to show this has been completed within 45 days of the date of issuance of the Final Order.

It is requested that Macpherson maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Director, Western

Region, OPS. 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 changes to pipeline infrastructure.

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 2, 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. § 192.603(b) **(Item 2)** — Respondent's alleged failure to keep records necessary to administer the procedures it established under § 192.605 for its Kern County Gas Line. While Macpherson had the required procedures, it allegedly failed to keep records necessary to administer those procedures. Specifically, Macpherson allegedly failed to keep or produce any records pertaining to the construction, start-up, or shutdown of any part of its Kern County Gas Line.

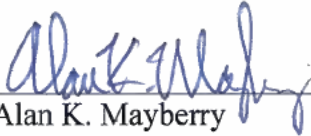
49 C.F.R. § 192.807(a)(4) **(Item 7)** — Respondent's alleged failure to maintain records that demonstrated compliance with 49 C.F.R. Part 192, Subpart N, with respect to the operation qualification method(s) used for its Kern County Gas Line.

49 C.F.R. § 192.807(b) **(Item 8)** — Respondent's alleged failure to maintain records that demonstrated compliance with 49 C.F.R. Part 192, Subpart N, with respect to supporting an individual's current qualification while the individual performed a covered task on the Kern County Gas Line. Macpherson allegedly utilized contract personnel to perform covered tasks on its Kern County Gas Line, but did not provide records to show that the contractor personnel who performed the covered tasks were qualified to perform those tasks per § 192.805(b).

Macpherson presented information in its Response showing that it had taken actions to address the cited warning 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

AUG 24 2017

Date Issued