



February 27, 2024

Dustin Hubbard, Director
PHMSA Office of Pipeline Safety
Western Region 5
Lakewood CO

by email

**Re: NPV & Compliance Order, Request for Hearing
CPF 5-2024-002-NOPV**

Mr Hubbard:

On January 29, Town of Walden received your Notice of Probable Violation, proposed Civil Penalties and Compliance Order regarding a gas pipeline leak in August 2022.

As you may know, Town of Walden owns a gas pipeline & utility with gas customers in Walden, Colorado and tiny rural communities up to Laramie, Wyoming. Since Nov02, Walden has contracted with Pinedale Natural Gas ("PNG" or "Operator") to operate the physical facilities. The Town runs the business side of the utility.

Town of Walden and Pinedale Natural Gas contest these NPVs, civil penalties and compliance orders. Under DOT OPS regulations at 49 CFR Part 190 at §190.208, Walden and PNG request a live hearing with PHMSA under §190.211.

The contested issues as we see them are as follows:

- Your interpretation of the timeline is not entirely accurate, particularly the date of discovery of the underlying problem;
- NPV 1 and NPV 2 and two separate civil penalties are two allegations on the single issue of reporting an incident. The Operator believed this incident was not reportable to PHMSA et al;
- NPVs 3-4-5 are completely without merit. Of course the Operator investigated & documented over several months what had happened & why, with a 14,000-word, 13-page report, with an Exposed Pipe Report after the leak was excavated on November 2; caps were welded onto each end on November 28, with no gas present as tested by the welder; there was no gas to purge, with the 8 ft missing section and open blowdowns for 4 weeks; and the welder and onsite Operator technician had all OQs required for every step of the process;
- None of the issues in NPV 3-4-5 were raised by Colorado PUC or discussed in a year of consultation;

Walden Gas Utility

PO Box 489 ☒ 513 Harrison St, Walden, CO 80480 ☒ 970-723-4662 waldengas.com

- Because NPV 3-4-5 are meritless, then Compliance Orders A-B-C are moot. Walden Gas had already complied with these orders by the end of 2022;
- Under Compliance Order D, Walden voluntarily shares with PHMSA that the actual cost of this incident was about \$50,000, including the cost of lost gas.

This was a very serious incident for Walden Gas, absolutely unprecedented, with unexpected expense for loss of gas and repairs, but also the complete surprise source for the leak.

PHMSA and CoPUC have created an inaccurate record that should be cleared up. Walden and PNG request a live hearing on these issues, preferably at a neutral, median travel location near Ft Collins, and sometime after deep winter.

Respectfully submitted,

A handwritten signature in black ink that reads "Jim Dustin". The signature is written in a cursive, flowing style.

Jim Dustin

Mayor, Town of Walden



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

12300 W. Dakota Ave., Suite 110
Lakewood, CO 80228

**NOTICE OF PROBABLE VIOLATION
PROPOSED CIVIL PENALTY
and
PROPOSED COMPLIANCE ORDER**

VIA ELECTRONIC MAIL TO: MAYOR JIM DUSTIN

January 29, 2024

Jim Dustin
Mayor
Town of Walden
513 Harrison St.
PO Box 489
Walden CO, 80480

CPF 5-2024-002-NOPV

Dear Mayor Dustin:

From December 19, 2022, to December 20, 2022, representatives of the Colorado Public Utilities Commission (COPUC), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected the distribution integrity management program (DIMP) for Lines 1, 2 and 3 on the Town of Walden Gas Utility's (Town of Walden) natural gas distribution system managed by Pinedale Natural Gas (Pinedale) in Englewood, Colorado.

The inspection was prompted by a recent incident that released approximately 6.12 million cubic feet of natural gas into the atmosphere from August 31, 2022, to September 2, 2022. This incident involved the three pipelines inspected: Line 1, a 2-inch coated steel line installed in 1958, Line 2, a 3-inch coated steel line that runs parallel to Line 1 installed in 1979, and Line 3, a 2-inch coated steel line that previously was unknown to COPUC prior to the incident. The facts, as reported by the Town of Walden and Pinedale, regarding the incident are as follows:

- On May 10, 2022, Pinedale discovered a leak on Line 1.
- On July 28, 2022, Pinedale found and repaired a corrosion pinhole leak on Line 1.
- On August 31, 2022, Pinedale received a phone call from the Colorado Interstate Gas (CIG) control center indicating flow through CIG's transmission system had increased by a factor of 10 since August 23, 2022, suggesting a leak.
- On September 1, 2022, Pinedale attempted to find the source of the gas loss by systematically isolating sections of the system and checking for pressure drops. Low pressure was observed on Line 1.
- On September 2, 2022, Pinedale discovered the location of the leak on Line 1, and shut in Line 1 to stop the leak, pending repair. Line 2 continued to supply natural gas to the Town of Walden.
- On September 8, 2022, Pinedale received the August 2022 gas volume statement from CIG.
- On October 7, 2022, Pinedale received the September 2022 gas volume statement from CIG.
- On October 25, 2022, Pinedale reported the incident to the National Response Center.
- On November 2, 2022, Pinedale began excavating the Line 1 leak area, in order to make the repair. 60-feet of Line 1 near the area of the July 28th repair was excavated, but no leak was found. The excavated material was black and smelled of odorant ("leak dirt"). After Line 1 was repressurized, a leak detector indicated the presence of gas. Pinedale continued excavating and found another 2-inch line (Line 3) about 7 feet away from Line 1, which was also surrounded by "leak dirt". Pinedale chronicled that Line 3 was not shown on any maps or described in any of the previous operator's documents. Leaks from Line 3 were not readily detectable, but when gas was introduced, it was found to be leaking in four places.
- On November 2, 2022, Pinedale decided to permanently abandon Lines 1 and 3 for a total of 17,000 feet of pipeline.
- It was concluded that the leak on Line 3 persisted for decades before discovery.
- On November 3, 2022, Pinedale filed Department of Transportation (DOT) Form RSPA F 7100.1 to Pipeline Hazardous Materials and Safety Administration (PHMSA).

On November 28, 2022, Pinedale welded caps on both ends of the 17,000 ft of pipeline at the Bonanza Creek Hub and the Michigan River Valve. As a result of the COPUC's investigation, it appears Town of Walden has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violations are:

1. § 191.5 Immediate notice of certain incidents.

(a) At the earliest practicable moment following discovery, but no later than one hour after confirmed discovery, each operator must give notice in accordance with paragraph (b) of this section of each incident as defined in § 191.3.

Town of Walden failed to give immediate notice of the August 31, 2022, incident to the National Response Center (NRC). On August 31, 2022, Pinedale received a phone call from CIG indicating flow through the system had increased by a factor of 10 since August 23, 2022, suggesting a leak. Pinedale subsequently investigated, discovered a leak, and initiated mitigation measures and repairs within days of the initial indication of a pipeline failure. The estimated volume of the leak exceeded the reporting requirement threshold as stated in § 191.3. However, the notice of the incident was not submitted to the NRC until October 25, 2022, approximately 55 days after discovery.¹

Therefore, Town of Walden failed to give immediate notice, but no later than one hour after confirmed discovery, of the incident to the NRC as required.

2. § 191.9 Distribution system: Incident report.

(a) Except as provided in paragraph (c) of this section, each operator of a distribution pipeline system shall submit Department of Transportation Form RSPA F 7100.1 as soon as practicable but not more than 30 days after detection of an incident required to be reported under § 191.5.

Town of Walden failed to submit DOT Form RSPA F 7100.1 as soon as practicable but not more than 30 days after detection of the August 31, 2022 incident, as referenced above. Pinedale submitted the required DOT Form RSPA F 7100.1 on November 3, 2022, approximately 64 days after the detection of an incident. When reviewing the document, the incident report indicates, in Part A – Key Report Information, the earliest date the incident reporting criterion was met occurred on August 31, 2022.

Therefore, Town of Walden failed to submit to the DOT Form RSPA F 7100.1 within 30 days of the detection of the incident as required.

3. § 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

¹ See NRC Report #1350815 (“Incident: DISCOVERED on 8/31/2022 local incident time”).

Town of Walden failed to follow its written procedures for conducting operations and maintenance activities. Specifically, Pinedale failed to follow *O&M Manual Section 400.8 Inspecting Uncovered Pipeline* for completing an Exposed Pipe Report. During the inspection, Pinedale was unable to provide any records that indicated Pinedale documented the condition of the exposed pipe during the November 2, 2022, excavation activities.² As a result, Pinedale was unable to determine whether additional corrosion requiring remedial action existed in the vicinity of the exposed portion as required by its Operations and Maintenance Manual (O&M Manual).

Additionally, Pinedale failed to follow *O&M Manual Section 650.3 Abandonment of Mains and Services*. O&M Manual Section 650.3 states only pipe sections less than 500 ft. and smaller than 2-inch diameter not to be purged. During the inspection, Pinedale was unable to provide any records indicating that the abandoned pipeline section of 17,000 feet was purged prior to abandonment.

Furthermore, Pinedale failed to follow *O&M Manual Section 655.3 Purging Precautions*. During the inspection, Pinedale provided records demonstrating that the final concentration of gas was checked with a Sensit Gold G2 leak detector. However, records did not adequately establish the abandoned pipeline contained "less than 1% gas in air".

Therefore, Town of Walden failed to follow its O&M manual as required per § 192.605(a).

4. § 192.617 Investigation of failures and incidents.

(a) *Post-failure and incident procedures.* Each operator must establish and follow procedures for investigating and analyzing failures and incidents as defined in § 191.3, including sending the failed pipe, component, or equipment for laboratory testing or examination, where appropriate, for the purpose of determining the causes and contributing factor(s) of the failure or incident and minimizing the possibility of a recurrence.

Town of Walden failed to follow its procedures for investigating and analyzing failures and incidents as required. Specifically, Pinedale failed to follow *O&M Manual Section 260 Investigation of Failures*. During the inspection, Pinedale was unable to provide any records indicating Pinedale attempted to determine the causes and contributing factors for the failures and incidents that occurred and were related to the August 31, 2022, incident.

Therefore, Town of Walden failed to investigate and analyze the incident as required per § 192.617(a).

5. § 192.805 Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

(a) . . .

² As stated above, Lines 1 and 3 were exposed as part of the November 2, 2022, investigation and repair of the August 31, 2022, leak.

(b) Ensure through evaluation that individuals performing covered tasks are qualified;

Town of Walden failed to confirm through evaluation that individuals performing covered tasks were qualified. Specifically, Pinedale personnel did not have the requisite Operator Qualifications (OQs) while performing Covered Task 34 - §192.741 Abandonment or deactivation of facilities on November 28, 2022. This covered task is identified in Pinedale's *OQ Plan, Attachment E Identified Covered Tasks*.

Therefore, Town of Walden failed to comply with § 192.805(c) as required.

Proposed Civil Penalty

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 \$2,391,412 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 documentation involved for the above probable violations and recommend that you be preliminarily assessed a civil penalty of \$ 81,800 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$ 40,900
2	\$ 40,900

Proposed Compliance Order

With respect to items 3, 4, and 5 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Town of Walden. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement Proceedings*. Please refer to this document and note the response options. All material you submit in response to this enforcement action may be 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).

Following your receipt of this Notice, you have 30 days to respond as described in the enclosed *Response Options*. If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from receipt of this Notice. The Region Director may extend the period for responding upon a written request timely submitted demonstrating good cause for an extension.

In your correspondence on this matter, please refer to **CPF 5-2024-002-NOPV**, and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Dustin Hubbard
Director, Western Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Enforcement Proceedings

cc: PHP-60 Compliance Registry
PHP-500 J. Luo, J. Berry (#22-258385)
Steve Shute, Pipeline Operator Managing Town of Walden's gas distribution system-
Steve@pipeline.group
Casey Hensley, COPUC Program Manager - Casey.Hensley@state.co.us

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Pinedale a Compliance Order incorporating the following remedial requirements to ensure the compliance of Town of Walden with the pipeline safety regulations:

- A. In regard to Item Number 3 of the Notice pertaining to failure to follow written procedures for conducting operations and maintenance activities, Town of Walden must confirm the abandoned pipeline was purged prior to abandonment as required by *O&M Manual Section 650.3 Abandonment of Mains and Services* within **90** days of receipt of the Final Order.
- B. In regard to Item Number 4 of the Notice pertaining to failure to follow procedures for investigating and analyzing failures and incidents, Town of Walden must investigate and analyze the failures and incident as required by *O&M Manual Section 260 Investigation of Failures* within **90** days of receipt of the Final Order. Specifically, in order to determine the causes and contributing factors of the failures and incident, and to minimize the possibility of a recurrence, Town of Walden must send the failed pipe for laboratory testing. Additionally, Town of Walden must develop, implement, and incorporate lessons learned from a post-failure or incident review into its written procedures.
- C. In regard to Item Number 5 of the Notice pertaining to failure to confirm through evaluation that individuals performing covered tasks are qualified, Town of Walden must implement a comprehensive OQ program review within **90** days of receipt of the Final Order. Specifically, Town of Walden must perform a comprehensive re-evaluation of each person's independent qualifications for all covered tasks, review the list of covered tasks, and evaluate if any individual's performance contributed to an incident.
- D. It is requested (not mandated) that Town of Walden maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Dustin Hubbard, 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 changes to pipeline infrastructure.