



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

8701 South Gessner, Suite 1110
Houston, TX 77074

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

January 19, 2010

Mr. Rick Olson
Senior Vice President, Operations and Technical Services
Magellan Midstream Partners, L.P.
One Williams Center
P. O. Box 22186
Tulsa, OK 74172-2186

CPF 4-2010-5003

Dear Mr. Olson:

The Pipeline and Hazardous Materials Safety Administration's (PHMSA) SW Region Office has reviewed the Magellan Midstream Partners, L.P. (Magellan) letter dated December 17, 2009, regarding the Longhorn Mitigation Plan, Commitment Number 12 (LMC 12 Letter). That letter requests an extension of time for the completion of the UT inspection specified in the Longhorn Mitigation Plan (LMP) Longhorn Mitigation Commitment (LMC) Number 12. This constitutes a modification to the LMP, and is subject to the requirements set forth in the First Supplement to the LMP, more specifically LMC 39 which requires that any changes or modifications proposed by Longhorn to the LMP shall be for the purpose of adapting to changing technology and circumstances.

LMC 39 contains explicit requirements for submitting proposed changes or modifications:

“At the time Longhorn submits any proposed changes or modifications to the Longhorn Mitigation Plan for DOT [PHMSA] review and approval, the proposed changes or modifications along with Longhorn’s justification therefore shall (a) be made available to the public by posting the same on the Longhorn corporate Internet website and (b) be provided to the General Manager of the Lower Colorado River Authority and to the Mayors of Houston, Austin, and El Paso.”

Furthermore, Magellan is reminded that the LMP and associated Pipeline System Integrity Plan and Operational Reliability Assessment shall be considered part of Longhorn’s written procedures for conducting normal operations and maintenance activities, as specified under 49 CFR §195.402 and any violation of the Longhorn Mitigation Plan is subject to enforcement under 49 CFR Part 190.

On January 5, 2010, a PHMSA representative contacted Mr. Doug Chabino by telephone, at which time it was confirmed that Magellan had not provided notification of your proposed change to the LMP to the parties requiring notification of any such proposed changes to the LMP. Additionally, it was confirmed that Magellan is not proposing alternative actions to the requirements of LMC 12.

Based on the LMC 12 Letter, and the telephone conversation of January 5, 2010, it appears that Magellan has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items observed and the probable violation(s) are:

1. §195.402 Procedural manual for operations, maintenance, and emergencies.

(a) General. Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies.

Magellan has failed to follow the procedure in LMC 39 for requesting changes to the LMP by failing to post the proposed changes on its corporate Internet site, and failing to make notification to the entities required by LMC 39. Magellan has also removed the LMP and the System Integrity Plan information that is to be made available to the public from the Longhorn Corporate Internet site the, instead referring the public to the EPA website.

Magellan has redirected the former Longhorn Partners Pipeline corporate website <http://www.longhornpipeline.com/> to the Magellan Corporate Internet site, but does not identify Longhorn Partners Pipeline on the Magellan homepage. Magellan has made it cumbersome and difficult for the public to obtain information regarding the Longhorn Mitigation Plan and the Longhorn Mitigation Commitments by burying them under the safety/environment tab. The System Integrity Plan that is accessible at this tab is the Magellan System Integrity Plan, and is not the Longhorn Mitigation Plan System Integrity Plan referenced in LMC 39.

The Longhorn Pipeline Management Commitment expressly requires the “operations, maintenance, and improvement activities will be governed by an overall system integrity and risk management process through adoption of this LPSIP,” found in the LMP Section 3.2 which further requires the LPSIP information to be available to the public.

LMP Section 3.2.14 states that “*As part of the Longhorn Continuing Integrity Commitment, Longhorn has agreed to implement and be bound in the future by (a) the System Integrity commitments set out in Section 3.2 hereof, (b) the Mitigation Commitments described in Section 1.2 hereof...*” and further states that “*Through the reports made available to the public, the public will be able to monitor Longhorn’s continuing commitment to maintain the integrity of the pipeline at levels equivalent to those in place at start up.*”

Magellan appears to have reduced the availability of the reports and information that is available to the public through modifications to the Longhorn Corporate Internet site and removal of information previously available to the public on that site.

2. §195.402 Procedural manual for operations, maintenance, and emergencies.

- (a) General. Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies.**

By virtue of the LMC 12 Letter, Magellan has identified its failure to meet the requirements of LMC 12 within the specified time. Specifically, Magellan has not completed an in-line inspection of the existing pipeline (Valve J-1 to Crane) with an ultrasonic wall measurement tool no more than 5 years after system startup. System startup of the Longhorn Pipeline occurred on January 27, 2005, making the deadline for performance of LMC 12 within the specified timeline January 27, 2010. Magellan has failed to provide timely notice for a revision to the LMP as just the preparations for such an in-line inspection require more than the time between December 17, 2009 and January 27, 2010.

Further, Magellan has not provided an alternative proposal to ensure equivalent levels of safety are maintained as required by LMP 3.2.14.

Magellan is further reminded that LMC 12A requires that no more than three years shall pass without an in-line inspection being performed using an in-line tool capable of detecting third party damage (e.g. TFI, HRMFL, or geometry). Based upon the annual status reports submitted by Longhorn to PHMSA, SW Region, it appears that these dates will fall sometime within the calendar year of 2010, but no later than January 27, 2011, depending upon the date of the last tool run for each segment on the Longhorn system.

As a direct result of the actions described herein, DOT/PHMSA cannot approve Magellan's request for a time extension to LMC 12 until such time that Magellan has followed the notification requirements of LMC 39, including justification for the change and proposed alternatives to ensure equivalent levels of safety are maintained.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$51,000 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$51,000

Warning Item

With respect to item 2, 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 promptly correct these item(s). Be advised that failure to do so may result in HEP being subject to additional enforcement action.

Proposed Compliance Order

With respect to item 1, pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Magellan. 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 Compliance Proceedings*. Please refer to this document and note the response options. 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). 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.

In your correspondence on this matter, please refer to **CPF 4-2010-5003** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,



R. M. Seeley
Director, Southwest Region
Pipeline and Hazardous
Materials Safety Administration

cc: Larry Davied
Vice President, Technical Services
Magellan Midstream Partners, L.P.
One Williams Center
P. O. Box 22186
Tulsa, OK 74172-2186

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

PROPOSED COMPLIANCE ORDER

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

1. In regard to Item Number 1 of the Notice pertaining to failure to follow its operating manual which includes the procedures specified in the Longhorn Mitigation Plan (LMP),
 - a. Magellan shall revise its System Integrity Plan to incorporate the requirements of the LMP, specifically Longhorn Mitigation Commitment (LMC) 39, and provide a copy of the revised procedures to PHMSA, Southwest (SW) Region.
 - b. Following the procedure developed in Item 1a, above, Magellan shall revise its request for revision of the LMP with respect to LMC 12 and resubmit it to PHMSA, SW Region, in accordance with items 1d through 1h of this Compliance Order.
 - c. Magellan shall revise the Longhorn Corporate Internet site to make the LMP and other public information required by the LMP readily apparent and available. Magellan shall then post the revised change request and associated justifications and alternatives to be developed under this Compliance Order, to the Internet site.
 - d. Magellan shall provide a detailed justification for not performing the requirements of LMC 12 in accordance with the LMP, and develop alternative actions to be taken until the performance of the internal inspection by ultrasonic wall measurement tool in accordance with LMC 12 can be completed.
 - e. Magellan shall notify the entities identified in LMC 39 of the LMP regarding its failure to meet the timing requirements of LMC 12, and provide a copy of the justification and proposed alternatives to LMC 12 to those entities.
 - f. Magellan shall identify the alternatives and the associated costs for each alternative it has considered in lieu of meeting the timing requirements of LMC 12 and submit its alternative cost analysis to PHMSA, SW Region.
 - g. Magellan shall provide a detailed schedule for the timing of the inspections (or proposed alternatives to the inspections) required under both LMC 12 and LMC 12A for each pipeline segment on the Longhorn System.
 - h. Upon approval of Magellan's proposal by PHMSA, SW Region, Magellan shall provide monthly updates on its activities, costs and schedule for the completion of the alternatives to the completion of LMC 12 and scheduling of LMC 12A, until such time that the alternatives or the requirements of LMCs 12 and 12A are complete and PHMSA, SW Region no longer requires updates be provided.

2. Magellan shall submit its proposed alternatives and cost analysis to PHMSA, SW Region no later than thirty (30) days from the Final Order. Magellan's proposal shall be subject to the review and approval of PHMSA, SW Region. Magellan's submittal to PHMSA shall identify and copy all entities in LMC 39. PHMSA, SW Region will consider the comments from the LMC 39 entities in its review and approval of Magellan's alternative to meeting the timing requirements of LMC 12.

Magellan shall post its justification and proposed alternatives to its corporate Internet site at the same time it makes notification to PHMSA, SW Region.

3. Magellan shall maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to R. M. Seeley, Director, SW Region, Pipeline and Hazardous Materials Safety Administration. Costs shall 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.