

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

January 28, 2009

Mr. Tad True
Vice President True Oil
Butte Pipeline Company
455 N Poplar Street
PO Drawer 2360
Casper, WY 82602

CPF 5-2009-5002

Dear Mr. True:

On June 19 and on June 23 through 26, 2008, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected your Butte pipeline facilities in southeastern Montana and eastern Wyoming.

As a result of the inspection, it appears that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violations 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. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.**

Butte Pipeline Company (Butte) did not conduct their periodic review of their written procedures manual at the required frequency. At the time of one inspection in June 2008, most recent documented review was February 2005. This exceeded the maximum period between review by 25 months.

2. **§195.402 Procedural manual for operations, maintenance, and emergencies.**
 - (c) **Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:**
 - (12) **Establishing and maintaining liaison with fire, police, and other appropriate public officials to learn the responsibility and resources of each government organization that may respond to a hazardous liquid or pipeline emergency and acquaint the officials with the operator's ability in responding to a hazardous liquid or carbon dioxide pipeline emergency and means of communication.**

Butte did not establish and maintain a liaison with local fire, police, and other appropriate public officials. The Butte's Public Awareness Program, Supplement A, requires that a list of public officials be developed for conducting ongoing liaison activities. Butte has not yet developed these lists for the Butte pipeline. There were no records showing that any liaison activities have occurred.

3. **§195.402 Procedural manual for operations, maintenance, and emergencies.**
 - (c) **Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:**
 - (13) **Periodically reviewing the work done by operator to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found.**

Butte failed to periodically review the work done by their personnel and contractors to determine the effectiveness of procedures used in normal operation and maintenance and taking corrective action where deficiencies are found. Butte Normal Operating Procedures Section 3.8 requires that Butte perform annual reviews of personnel performance to determine the effectiveness of normal operation and maintenance procedures. Butte could not provide any records showing that the annual reviews of personnel work to determine the effectiveness of normal operation and

maintenance procedures has occurred. Butte was previously warned about this issue in a Warning Letter issued by PHMSA, CPF 5-2007-5008, dated February 8, 2007.

4. **§195.402 Procedural manual for operations, maintenance, and emergencies.**
 - (d) **Abnormal operation. The manual required by paragraph (a) of this section must include procedures for the following to provide safety when operating design limits have been exceeded;**
 - (5) **Periodically reviewing the response of operator personnel to determine the effectiveness of the procedures controlling abnormal operation and taking corrective action where deficiencies are found.**

Butte did not periodically review the response by their personnel and contractors to determine the effectiveness of procedures for controlling abnormal operation and taking corrective action where deficiencies are found.

Butte Abnormal Operating Procedures Section 6.3 requires a review of personnel responses to abnormal operations to determine the effectiveness of abnormal operating procedures. Butte could not provide records showing there has been periodic review of personnel response to abnormal operations to determine the effectiveness of abnormal operating procedures. Interviews indicate that this has been done informally but there have not been any records kept of these reviews. This deficiency was previously cited in a Warning Letter issued by PHMSA, CPF 5-2007-5008, dated February 2, 2007.

5. **§195.403 Emergency Response Training.**
 - (c) **Each operator shall require and verify that its supervisors maintain a thorough knowledge of that portion of the emergency response procedures established under 195.402 for which they are responsible to ensure compliance.**

Butte has not verified that its supervisors maintain a thorough knowledge emergency response procedures for which they are responsible. Butte does not have a written procedure requiring verification of supervisor knowledge of emergency response procedures so consequently they do not have a formal record verifying their supervisors' knowledge of emergency response procedures.

6. **§195.412 Inspection of rights-of-way and crossings under navigable waters.**

- (a) **Each operator shall, at intervals not exceeding 3 weeks, but at least 26 times each calendar year, inspect the surface conditions on or adjacent to each pipeline right-of-way. Methods of inspection include walking, driving, flying or other appropriate mean of traversing the right-of-way.**

Butte failed on two occasions to patrol their Butte Pipeline segment between Hulett and Osage, Wyoming within the maximum allowable time interval of 21 days. Butte patrol records show that there was an interval of 29 days between April 8, 2007 and May 7, 2007 and 22 days

between April 17, 2008 and May 9, 2008 between right-of-way inspections of the Hulett to Osage, Wyoming segment of their Butte Pipeline.

7. §195.577 What must I do to alleviate interference currents?

(a) For pipelines exposed to stray currents, you must have a program to identify, test for, and minimize the detrimental effects of such currents.

Butte did not identify, test for, and minimize the detrimental effects of stray currents on their Butte pipeline segments in the area between their Guernsey to Ft Laramie stations. Cathodic protection (CP) records for the Butte pipeline in the area between their Guernsey to Ft. Laramie stations during 2006 show that many of the instant “off” readings taken from test stations in the proximity of foreign pipeline crossings were between -1.2 V and -1.9 V. These high readings indicate that there are potentially damaging foreign current being imparted to the pipeline. Interviews with field personnel revealed that Butte has not instituted any activities to identify, test for and minimize the detrimental effects of such currents.

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 violations and has recommended that you be preliminarily assessed a civil penalty of \$28,800 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$28,800

Warning Items

With respect to item 6 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 Butte being subject to additional enforcement action.

Proposed Compliance Order

With respect to items 1, 2, 3, 4, 5, and 7 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Butte Pipeline Company. 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 5-2009-5002** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Chris Hoidal
Director, Western Region
Pipeline and Hazardous Materials Safety Administration

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

cc: PHP-60 Compliance Registry

PROPOSED COMPLIANCE ORDER

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

1. In regard to Item Number 1 of the Notice pertaining to Butte failing to review their manuals of written procedures for normal operation and maintenance, for handling abnormal operations, and for responding to emergencies since February 2005 until the time of this inspection Butte must review all of their manuals of written procedures for normal operation and maintenance, for handling abnormal operations, and for responding to emergencies and make changes to those procedures that are not effective. Butte must also ensure that records are kept of these reviews as required by Part 195.
2. In regard to Item Number 2 of the Notice pertaining to Butte failing to establish and maintain liaison with local fire, police, and other appropriate public officials, Butte must develop a liaison list that include all of the local fire, police, and other appropriate public officials. After development of the above list Butte must then develop a plan for making contacts with each of those on the list. This plan must include instructions to document all liaison contacts made as well as give frequencies these contacts must be made.
3. In regard to Item Number 3 of the Notice pertaining to Butte failing to periodically review the work done by their personnel and contractors to determine the effectiveness of procedures used in normal operation and maintenance and taking corrective action where deficiencies are found, Butte must immediately review the work done by their personnel and contractors to determine the effectiveness of their operation and maintenance procedures. If deficiencies are found Butte must take corrective action. Butte must document all such reviews and corrective actions taken.
4. In regard to Item Number 4 of the Notice pertaining to Butte failing to periodically review the response by their personnel and contractors to determine the effectiveness of procedures controlling abnormal operation and taking corrective action where deficiencies are found, Butte must immediately review the response to emergencies by their personnel and contractors to determine the effectiveness of their emergency response procedures. If deficiencies are found Butte must take corrective action. Butte must document all such reviews and corrective actions taken.
5. In regard to Item Number 5 of the Notice pertaining to Butte not having verified that its supervisors maintain a thorough knowledge emergency response procedures for which they are responsible, Butte must immediately verify that all of their supervisors have a thorough knowledge of emergency response procedures.
6. In regard to Item Number 7 of the Notice pertaining to Butte having failed to identify, test for, and minimize the detrimental effects of stray currents on their Butte pipeline segments in the area between their Guernsey to Ft Laramie

stations, Butte must develop a plan for identifying, testing for, and minimizing the detrimental effects of stray currents on their Butte pipeline segments in the area between their Guernsey to Ft Laramie stations within one year.

7. Butte shall maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Chris Hoidal, Director, Western 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.