

**JUL 09 2009**

Mr. Donal O'Callaghan  
Director, Light & Power Department  
City of Vernon  
4305 Santa Fe Avenue  
Vernon, CA 90058

**Re: CPF No. 5-2006-0020**

Dear Mr. O'Callaghan:

Enclosed is the Final Order issued in the above-referenced case. It makes findings of violation and specifies actions to be taken 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. Your receipt of this Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

Enclosure

cc: Mr. Chris Hoidal, Director, Western Region, OPS

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7005 0390 0005 6162 5593]**

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

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**In the Matter of**

**City of Vernon,**

**Respondent.**

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**CPF No. 5-2006-0020**

**FINAL ORDER**

On June 21, 2005, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), inspected the facilities and records of City of Vernon (Vernon or Respondent), the operator of a municipal gas distribution system in Southern California. As a result of that inspection, the Director, Western Region, OPS (Director), issued to Vernon, by letter dated June 6, 2006, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Vernon had violated Part 192 of the pipeline safety regulations. The Notice also proposed ordering Vernon to take certain measures to correct those alleged violations.

Vernon responded to the Notice by letters dated June 15, 2006, and August 11, 2006 (collectively, Response). Respondent did not contest the allegations of violation, but it did describe the corrective measures it had already taken. Vernon did not request a hearing and has therefore waived that right.

**FINDINGS OF VIOLATION**

**Item 1:** The Notice alleged that Vernon violated 49 C.F.R. §§ 192.605(b)(8) and (b) (9), which state, in relevant part:

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

(a) . . .

(b) Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following, if applicable, to provide safety during maintenance and operations.

(1) . . .

(8) Periodically reviewing the work done by operator personnel to determine the effectiveness, and adequacy of the procedures used in normal operation and maintenance and modifying the procedures when deficiencies are found.

(9) Taking adequate precautions in excavated trenches to protect personnel from the hazards of unsafe accumulations of vapor or gas, and making available when needed at the excavation, emergency rescue equipment, including a breathing apparatus and, a rescue harness and line.

Specifically, the Notice alleged that Vernon’s Operations, Maintenance, and Emergencies Manual (Manual) failed to specify its process for conducting periodic reviews of its personnel and procedures as required by § 192.605(b)(8). Respondent does not dispute that allegation. Accordingly, I find that Vernon violated § 192.605(b)(8) by failing to have in its Manual a prescribed process for “[p]eriodically reviewing the work done by operator personnel to determine the effectiveness, and adequacy of the procedures used in normal operation and maintenance and modifying the procedures when deficiencies are found.”

The Notice further alleged that Vernon’s Manual failed to specify its precautionary procedures for personnel performing work in excavated trenches as required by § 192.605(b)(9). Respondent does not dispute that allegation. Therefore, I find that Vernon violated § 192.605(b)(9) by failing to have in its Manual a prescribed procedure for “[t]aking adequate precautions in excavated trenches to protect personnel from the hazards of unsafe accumulations of vapor or gas, and making available when needed at the excavation, emergency rescue equipment, including a breathing apparatus and, a rescue harness and line.”

**Item 2:** The Notice alleged that Vernon violated 49 C.F.R. § 192.613(b), which states:

**§ 192.613 Continuing surveillance.**

(a) . . .

(b) If a segment of pipeline is determined to be in unsatisfactory condition but no immediate hazard exists, the operator shall initiate a program to recondition or phase out the segment involved, or, if the segment cannot be reconditioned or phased out, reduce the maximum allowable operating pressure in accordance with § 192.619 (a) and (b).

In particular, the Notice alleged that Vernon did not have a program for reconditioning or phasing out any segments of its pipeline that are in an “unsatisfactory condition.” The Notice further alleged that Vernon did not, in the event that reconditioning or phasing out is unavailable, have an alternative program for reducing the maximum allowable operating pressure on any such pipeline segments. Respondent does not dispute that allegation. Consequently, I find that Vernon violated 49 C.F.R. § 192.613(b) by failing

to “initiate a program to recondition or phase out” any segments of its pipeline “determined to be in unsatisfactory condition, . . . or, if the segment cannot reconditioned or phased out, [to] reduce the maximum allowable operating pressure in accordance with § 192.619 (a) and (b).”

**Item 3:** The Notice alleged that Vernon violated 49 C.F.R. § 192.615(b)(2), which states:

**§ 192.615 Emergency plans.**

(a) . . .

(b) Each operator shall:

(1) . . .

(2) Train the appropriate operating personnel to assure that they are knowledgeable of the emergency procedures and verify that the training is effective.

Namely, the Notice alleged that Vernon’s emergency plan did not include a written procedure to train appropriate operator personnel about its emergency procedures. Respondent does not dispute that allegation. Accordingly, I find that Vernon violated 49 C.F.R. § 192.615(b)(2) by failing to have in its emergency plan a written procedure to “[t]rain the appropriate operating personnel to assure that they are knowledgeable of the emergency procedures and verify that the training is effective.”

**Item 4:** The Notice alleged that Vernon violated 49 C.F.R. § 192.616 (2004),<sup>1</sup> which stated:

**§ 192.616 Public education.**

Each operator shall establish a continuing educational program to enable customers, the public, appropriate government organizations, and persons engaged in excavation related activities to recognize a gas pipeline emergency for the purpose of reporting it to the operator or the appropriate public officials. The program and the media used must be as comprehensive as necessary to reach all areas in which the operator transports gas. The program must be conducted in English and in other languages commonly

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<sup>1</sup> On the day before the OPS inspection, a new version of 49 C.F.R. § 192.616 went into effect. *See* 70 Fed. Reg. 28842 (May 19, 2005); 70 Fed. Reg. 35041 (June 16, 2005) (amending 49 C.F.R. § 192.616, effective June 20, 2005). Like its predecessor, that regulation required “each pipeline operator” to “develop and implement a written continuing public education program,” but it also imposed a number of additional requirements. 49 C.F.R. § 192.616 (2005); *see also* 72 Fed. Reg. 70808 (December 13, 2007) (amending 49 C.F.R. § 192.616, effective January 14, 2008). The Notice did not allege that Vernon violated the new version of § 192.616. Nevertheless, PHMSA expects—and specifically requires as a condition of the Compliance Order associated with this violation—that Vernon’s continuing public education program be in compliance with all of the requirements presently imposed in Part 192 of the pipeline safety regulations, including the current version of 49 C.F.R. § 192.616.

understood by a significant number and concentration of the non-English speaking population in the operator's area.

Specifically, the Notice alleged that Vernon's Manual did not have a continuing public education program as required by § 192.616. Respondent does not dispute that allegation. Therefore, I find that Vernon violated 49 C.F.R. § 192.616 (2004) by failing to "establish a continuing educational program to enable customers, the public, appropriate government organizations, and persons engaged in excavation related activities to recognize a gas pipeline emergency for the purpose of reporting it to the operator or the appropriate public officials."

**Item 5:** The Notice alleged that Vernon violated 49 C.F.R. § 192.703(b), which states:

**§ 192.703 General.**

(a) . . .

(b) Each segment of pipeline that becomes unsafe must be replaced, repaired, or removed from service.

In particular, the Notice alleged that Vernon's Manual did not specify any procedure for replacing, repairing, or removing any unsafe segments of its pipeline. Respondent does not dispute that allegation. Consequently, I find that Vernon violated 49 C.F.R. § 192.703(b) by failing to adopt a procedure to ensure that "[e]ach segment of pipeline that becomes unsafe" is "replaced, repaired, or removed from service."

**Item 6:** The Notice alleged that Vernon violated 49 C.F.R. § 192.719, which states:

**§ 192.719 Transmission lines: Testing of repairs.**

(a) *Testing of replacement pipe.* If a segment of transmission line is repaired by cutting out the damaged portion of the pipe as a cylinder, the replacement pipe must be tested to the pressure required for a new line installed in the same location. This test may be made on the pipe before it is installed.

(b) *Testing of repairs made by welding.* Each repair made by welding in accordance with §§ 192.713, 192.715, and 192.717 must be examined in accordance with § 192.241.

Namely, the Notice alleged that Vernon's Manual did not include a procedure for testing replacement pipe or repairs made by welding. Respondent does not dispute that allegation. Accordingly, I find that Vernon violated 49 C.F.R. § 192.719 by failing to have a written procedure for testing replacement pipe or repairs made by welding.

**Item 7:** Finally, the Notice alleged that Vernon violated 49 C.F.R. § 192.487, which states:

**§ 192.487 Remedial measures: Distribution lines other than cast iron or ductile iron lines.**

(a) *General corrosion*. Except for cast iron or ductile iron pipe, each segment of generally corroded distribution line pipe with a remaining wall thickness less than that required for the MAOP of the pipeline, or a remaining wall thickness less than 30 percent of the nominal wall thickness, must be replaced. However, corroded pipe may be repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe. Corrosion pitting so closely grouped as to affect the overall strength of the pipe is considered general corrosion for the purpose of this paragraph.

(b) *Localized corrosion pitting*. Except for cast iron or ductile iron pipe, each segment of distribution line pipe with localized corrosion pitting to a degree where leakage might result must be replaced or repaired.

Specifically, the Notice alleged that Vernon's Manual did not include a procedure for identifying and, if necessary, repairing or replacing each segment of its distribution line pipe that suffered from general or localized corrosion. Respondent does not dispute that allegation. Therefore, I find that Vernon violated 49 C.F.R. § 192.487 by failing to have a procedure for identifying and, if necessary, repairing or replacing each segment of its distribution line pipe that suffered from general or localized corrosion.

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

### **COMPLIANCE ORDER**

The Notice proposed a compliance order with respect to Items 1 through 7 for violations by Respondent of 49 C.F.R. §§ 192.487, 192.605(b)(8) and (b)(9), 192.613(b), 192.615(b)(2), 192.616, 192.703(b), and 192.719. 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. Respondent must:

1. With respect to Item 4, Respondent must demonstrate compliance with 49 C.F.R. § 192.616 by submitting documentation of its continuing public education and awareness program to the Director at the address listed below within sixty (60) of the issuance of this Final Order.
2. Respondent must 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, 12300 West Dakota Avenue, Suite 110, Lakewood, Colorado

80228. Respondent must report costs 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 demonstrating good cause for an extension.

The Director has indicated that Respondent has taken the following actions to address some of the cited violations. Specifically, Vernon revised its Manual, effective August 11, 2006, to address the violations in Items 1, 2, 3, 5, 6, and 7 of this Order, and a March 19, 2007 OPS inspection confirmed that Vernon had attained compliance with the relevant regulations. Accordingly, since Respondent has achieved compliance with respect to these violations, the compliance terms are not included in this Order.

Failure to comply with this Order may result in administrative assessment of civil penalties not to exceed \$100,000 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.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a Petition for Reconsideration of this Final Order. The petition must be received within 20 days of Respondent's receipt of this Final Order and must contain a brief statement of the issue(s). The terms of the order, including any required corrective action and amendment of procedures, shall remain in full force and effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order shall be effective upon receipt.

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Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

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Date Issued