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October 1, 2019

BY HAND DELIVERY

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Filing Room
Harrisburg, PA 17120

Re: Wilmer Baker v. Sunoco Pipeline L.P.; Docket No. C-2018-3004294; **SUNOCO PIPELINE L.P.'S MOTION TO STRIKE PORTIONS OF COMPLAINANT'S REPLY BRIEF**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is Sunoco Pipeline L.P.'s Motion to Strike Portions of Complainant's Reply Brief in the above-captioned proceeding. Due to the size of this filing, a CD containing the Motion and Attachment A is also enclosed herewith.

If you have any questions regarding this filing, please contact the undersigned.

Very truly yours,

Thomas J. Sniscak
Whitney E. Snyder
Counsel for Sunoco Pipeline L.P.

WES/das
Enclosure
cc: Hon. Elizabeth H. Barnes, (Electronic ebarnes@pa.gov and first class mail)
Per Certificate of Service

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SECRETARY'S BUREAU
FRONT DESK

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

WILMER BAKER	:	
	:	
Complainant,	:	
	:	
v.	:	
	:	Docket No. C-2018-3004294
SUNOCO PIPELINE L.P.	:	
	:	
Respondent.	:	
	:	

NOTICE TO PLEAD

You are hereby advised that you may file a response within twenty (20) days of the attached Motion to Strike. Any response must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Sunoco Pipeline, L.P., and where applicable, the Administrative Law Judge presiding over the issue.

File with:
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

Respectfully submitted,

Thomas J. Sniscak, Esq. (PA ID No. 33891)
Kevin J. McKeon, Esq. (PA ID No. 30428)
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Attorneys for Respondent Sunoco Pipeline L.P.

Dated: October 1, 2019

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

WILMER BAKER	:	
	:	
Complainant,	:	
	:	
v.	:	
	:	Docket No. C-2018-3004294
SUNOCO PIPELINE L.P.,	:	
	:	
Respondent.	:	

SUNOCO PIPELINE L.P.'S MOTION TO STRIKE PORTIONS OF COMPLAINANT'S REPLY BRIEF

Pursuant to 52 Pa. Code § 5.501, and § 5.431(b), Sunoco Pipeline L.P. ("SPLP") moves to strike portions of Wilmer Baker's Reply Brief submission (Complainant's Reply Brief). While Mr. Baker is a lay person and not a lawyer that understands the rules of evidence and the Commission's rules of practice and procedure, he nonetheless has violated significantly basic rules of Commission proceedings thinking wrongly that he can attach anything and everything to his briefs. That is plain legal error and not permitted by the rules under which Commission proceedings must be conducted and fundamental due process.

Attachment A to this Motion is Complainant's Reply Brief as served on SPLP.[1] SPLP moves to strike:

New testimony and lay opinions not included in the Record – Attachment A Page 4	These materials attempt to improperly introduce new testimony after the close of the record in violation of 52 Pa. Code § 5.431(b) ("After the record is closed, additional matter may not be relied upon or accepted into the record unless allowed for good cause shown by the presiding officer or the Commission upon motion."), 52 Pa. Code § 5.501 (content of briefs), and SPLP's due process rights.
New Exhibits - Attachment A Pages 168-170 and portions of Reply Brief relying thereon at Page 6	These materials attempt to improperly introduce new evidence after the close of the record in violation of 52 Pa. Code § 5.431(b) ("After the record is closed, additional matter may not be relied upon or accepted into the record unless allowed for good cause shown by the presiding officer or the Commission upon motion."), 52 Pa. Code § 5.501 (content of briefs), and SPLP's due process rights.
Exhibits Not Admitted into Record – Attachment A Pages 106-107 and 136-137[2] and portions of the Reply Brief relying thereon at Page 5	These pages attempt to introduce and rely upon evidence Your Honor excluded from the record by providing inaccurate copies of an exhibit admitted at hearing and a copy of an exhibit excluded from admission at hearing in violation of 52 Pa. Code § 5.501 and SPLP's due process rights.

SPLP has provided red strikethrough markings of the materials to be stricken in Attachment A.

I. ARGUMENT

Complainant cannot now, after the record has closed and hearings have concluded,[3] introduce new evidence or evidence already excluded at hearing and such materials cannot be

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[1] Complainant's Reply Brief served on SPLP does not match the submission on the Commission's website in that some pages are omitted from SPLP's copy, some pages are omitted from the PUC's copy, there is disorganization between the copies, and SPLP's copy contains markings and highlighting not present on the PUC's copy. For purposes of decisions and citations in this proceeding, SPLP requests that the copy of Complainant's Reply Brief attached to this Motion be the operative copy.

[2] SPLP also moved to strike these pages from Complainant's Main Brief, for the same reasons discussed herein.

[3] On July 25, 2019, Your Honor entered an Interim Order closing the evidentiary record and ordering that briefs must comply with the requirements of 52 Pa. Code §§ 5.501 and 5.502. *Wilmer*

relied upon. Mr. Baker must understand that he is in a legal proceeding subject to rules and regulations for the presentation and status of evidence of record which, unfortunately, he has violated by his decision to proceed without counsel or his own understanding of basic rules designed to protect the integrity of Commission case records. Both Commission regulations[4] and fundamental due process[5] prohibit this. That Complainant is *pro se* is no excuse,[6] particularly where his actions violate SPLP's substantive rights and he already had more than a full and fair opportunity to be heard.

Portions of page 4 of Complainant's reply brief must be stricken as an attempt to introduce new testimony and lay opinions in reference to Exhibit C-16. The new testimony states "(Notice that it was ground down) Either this, or this pipe was cracked at its ends." Complainant's Reply

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Baker v. Sunoco Pipeline L.P., Docket No. C-2018-3004294, Interim Order at Ordering paragraphs 5 and 6 (Order entered July 25, 2019).

[4] 52 Pa. Code § 5.431(b) ("After the record is closed, additional matter may not be relied upon or accepted into the record unless allowed for good cause shown by the presiding officer or the Commission upon motion.").

[5] The Commission, as an administrative body, is bound by the due process provisions of constitutional law and by the principles of common fairness." *Hess* v. *Pa. Pub. Util. Comm'n,* 107 A.3d 246, 266 (Pa. Cmwlth. 2014); *Bridgewater Borough* v. *Pa. Pub. Util. Comm'n,* 124 A.2d 165 (Pa. Super. 1956); *McCormick* v. *Pa. Pub. Util. Comm'n,* 30 A.2d 327 (Pa. Super. 1943). "Among the requirements of due process are notice and an opportunity to be heard on the issues, to be apprised of the evidence submitted, to cross-examine witnesses, to inspect documents, and to offer evidence in explanation or rebuttal." *Hess* v. *Pa. Pub. Util. Comm 'n,* 107 A.3d 246,266 (Pa. Cmwlth. 2014); *Davidson* v. *Unemployment Compensation Bd. o/Review,* 151 A.2d 870 (Pa. Super. 1959); *In re Shenandoah Suburban Bus Lines, Inc.,* 46 A.2d 26 (Pa. Super. 1946).

[6] As the Pennsylvania Supreme Court has held, "[i]t is, we believe, preferable to simply recognize, as the Commonwealth Court has previously done, that 'any layperson choosing to represent himself in a legal proceeding must, to some reasonable extent, assume the risk that his lack of expertise and legal training will prove his undoing.'" *Vann v. Com., Unemployment Comp. Bd. of Review*, 508 Pa. 139, 148 (1985)(emphasis added); quoting *Groch v. Unemployment Compensation Board of Review,* 81 Pa.Cmwlth. 26, 30, 472 A.2d 286, 288 (1984)). *See also Dolores Herring v. Metropolitan Edison Company*, No. F-2016-2540875, 2017 WL 3872590, at *3 (Order entered August 31, 2017) (The Commission, citing *Vann* and *Groch*, adopted the ALJ's initial decision, noting "the Complainant in this case proceeded *pro se* by choice and bore the risk of doing so.").

Brief at 4. This is not testimony of record or supported by testimony of record. At no point before the close of the record did Complainant offer this improper lay opinion about Exhibit C-16. Commission regulations clearly prohibit admission or reliance on these materials: "After the record is closed, additional matter may not be relied upon or accepted into the record unless allowed for good cause shown by the presiding officer or the Commission upon motion." 52 Pa. Code § 5.431(b). There is absolutely no good cause to allow this information to be submitted into the record because this would violate SPLP's due process rights and Mr. Baker already had more than the full and fair opportunity to be heard.

Pages 168 - 170 and the portions of page 6 that rely thereon must be stricken as an attempt to introduce new evidence after the record has closed with no good cause and in violation of SPLP's due process rights. These pages consist of various hearsay statements, from an unknown source, as well as a handwritten list of various statutes and regulations. Commission regulations clearly prohibit admission or reliance on these materials: "After the record is closed, additional matter may not be relied upon or accepted into the record unless allowed for good cause shown by the presiding officer or the Commission upon motion." 52 Pa. Code § 5.431(b). There is absolutely no good cause to allow this information to be submitted into the record because this would violate SPLP's due process rights and Mr. Baker already had more than the full and fair opportunity to be heard.

SPLP has the fundamental due process right in this proceeding to "an opportunity to be heard on the issues, to be apprised of the evidence submitted, to cross-examine witnesses, to

inspect documents, and to offer evidence in explanation or rebuttal."[7] Allowing submission of the materials violates these rights in a multitude of ways, such as:

- SPLP is deprived of the right to object to the admission of these documents as violative of the rules of evidence and administrative procedure (these documents are, among other issues, uncorroborated hearsay and attempts to offer opinion testimony by non-experts as well as rely on materials and admit materials upon which non-expert cannot rely).
- SPLP is deprived of the right to cross-examination.
- SPLP is deprived of the right to offer evidence and explanation in rebuttal.
- SPLP is deprived of the right to be heard on the substance of these materials.
- SPLP is deprived of the right to advance notice of these materials.

There can be no good cause to allow admission of these additional materials where it would clearly violate SPLP's due process rights.

Moreover, Mr. Baker had over ten months to prepare his case and present it. Your Honor at various times relaxed procedural and evidentiary rules and there can be no doubt that Mr. Baker had more than a full and fair opportunity to present his case. There is absolutely no good cause to rely on or admit these materials and they must be stricken.

Pages 106-107 and 136-137 must be stricken as they were already excluded from evidence, those rulings were correct, and Complainant does not even allege that they were not, and allowing admission or reliance thereon would violate SPLP's due process rights because SPLP relied on Your Honor's ruling excluding these exhibits from the record. SPLP addressed these same points

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[7] *Hess* v. *Pa. Pub. Util. Comm 'n,* 107 A.3d 246,266 (Pa. Cmwlth. 2014); *Davidson* v. *Unemployment Compensation Bd. o/Review,* 151 A.2d 870 (Pa. Super. 1959); *In re Shenandoah Suburban Bus Lines, Inc.,* 46 A.2d 26 (Pa. Super. 1946).

in its Motion to Strike Complainant's Main Brief. Pages 136-137 are pictures from the anti-pipeline blog dragonpipediaries.com that were excluded from the record. N.T. 22:12, 99:16-24. Mr. Baker's stubborn intent to disregard Your Honor's correct rulings must neither be tolerated nor allowed. This exhibit was correctly excluded because it is hearsay, not prepared by a witness testifying at trial, and could not be authenticated, among other reasons. *Id.* Pages 106-107 are a witness statement from Ms. Van Fleet that Mr. Baker identifies in his Reply Brief as part of Exhibit C-24. Exhibit C-24 as identified and admitted at hearing solely consisted of photographs, not a witness statement. N.T. 22:16, 166:3-167:23. Your Honor expressly excluded admission of "witness statements," recognizing that the witnesses were present to testify at hearing and that there was thus no reason to admit such hearsay statements. N.T. 195:21-196:21 (disallowing admission of Ms. DiGuilio's written witness statement). These statements were already excluded from evidence and should be stricken. To the extent Mr. Baker is now trying to admit this as new evidence, the same due process concerns and lack of good cause apply as discussed above and it should be stricken for those reasons too.

II. CONCLUSION

WHEREFORE, SPLP respectfully requests Your Honor strike Complainant's Reply Brief at pages 106-107, 136-137, 168-170 and portions of pages 4, 5, and 6 as identified in Attachment A with red strikethroughs.

Respectfully submitted,

Thomas J. Sniscak, Esq. (PA ID No. 33891)
Whitney E. Snyder, Esq. (PA ID No. 316625)
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wesnyder@hmslegal.com

Attorneys for Respondent Sunoco Pipeline L.P.

Dated: October 1, 2019

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

WILMER BAKER Complainant, v. SUNOCO PIPELINE L.P., Respondent.	:	Docket No. C-2018-3004294

ATTACHMENT A

TO

SUNOCO PIPELINE L.P.'S MOTION TO STRIKE PORTIONS OF COMPLAINANT'S REPLY BRIEF

RECEIVED
OCT 01 2019
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

PAGE
ONE

PLEASE ACCEPT THIS AS MY REPLY BRIEFS IN THE MATTER OF

WILMER BAKER
VS
SUNOCO PIPELINE L.P.
CASE (C-2018-3004294)

I WOULD LIKE TO THANK JUDGE ELIZABETH BARNES, AND THE COMMISSION FOR HEARING MY CASE.

IT HAS BEEN AN HONOR! FIRST I WOULD BEGIN WITH THEIR LETTER ASKING FOR CLARIFICATION.

BEING LAWYERS YOU WOULD THINK THEY KNEW THE LAW!

SUNOCO'S BENCH MEMORANDUMS ONLY MADE ME REALIZE THAT THEY WOULD USE THE LAW TO DISTORT THE FACTS.

I SIGN IN SHEET, UPPER FRANKFORDS TOWNSHIP, SEPTEMBER 24, 2018, THREE FIREFIGHTERS REPORTED THEY HAD NO DRIVER LICENSE, ALSO AT THIS MEETING
C-5 I RECEIVED A CERTIFICATE OF COMPLETION FOR EMERGENCY RESPONSE FROM THE TOWNSHIP SUPERVISORS, AFTER 2 HOURS THEY WERE TRAINED

PAGE
TWO

2. AT THE MARCH MERO ATTENDANCE LIST OUT OF 40 PEOPLE 8 WERE SUNOCO
APRIL MEETING 35 PEOPLE ATTENDED 3 WERE SUNOCO PERSONAL, 2 FROM UPPER FRANKFORDS FIREHOUSE HAD NO PA. DRIVER'S LICENSE!
OCTOBERS MEETING 25 PEOPLE ATTENDED 6 WERE SUNOCO'S PERSONAL, 2 HAD NO PA LICENSE (2015)
2017 (5/16/2017) 30 PEOPLE ATTENDED, 7 WERE SUNOCO PERSONAL
2017, (10/16/17) 27 PEOPLE 3 WERE SUNOCO PERSONAL, ONE WAS LOWER FRANKFORD'S TOWNSHIP SUPERVISOR.
3. THIS SUPERVISOR ATTENDED TWO MERO MEETINGS BETWEEN 2014 THRU 2017 (JIM BURKHOLDER) SPLP-B-000386!

C-1

4. LOWER-FRANKFORD, SECRETARY (JUNE 11, 2018) REQUESTS IMPORTANT SAFETY MESSAGE! THESE ARE TO BE SENT OUT EVERY TWO YEARS!
JIM BURKHOLDER SHOULD HAVE KNOWN ABOUT THIS AFTER ATTENDING TWO MERO MEETINGS (2014, 2017)

PAGE
THREE

C-2 5. SAFETY MESSAGE, SHOULD HAVE BEEN EVERY TWO YEARS! (I RECEIVED TWO IN 5 YEARS.)

C-7 6. NEWS ARTICLE (JULY 14, 2018) A NO SHOW.

C-8 7. LETTER FROM JIM BURKHOLDER NEXT DAY AFTER NO SHOW (JULY 11, 2018,) DATED 12/10/2018, SENT TO ME!

8. AUGUST 6, 2018, LETTER TO LOWER FRANKFORDS ATTORNEY. (NO REPRESENTATION FROM TOWNSHIP

C-9 9. AUGUST 15 2018, NEWS ARTICLE, COUNTY COMMISSIONERS PUSH FOR MEETING (THREE TIMES SUNOCO REFUSES!)

C-10 10. LETTERS TO SUNOCO FROM (AUGUST, SEPT, OCT) NO PUBLIC OUTREACH!

C-11 11. NOVEMBER 8 2018, LETTER TO GLADYS BROWN, ANSWERED BY ROBERT F. YOUNG. (THEY ARE BREAKING LAW) API-RP-1162 SECTION 5.7 (APPENDIX D (D.23.D.25)

C-12 12. NEWS ARTICLE, COUNTY COMMISSIONERS STILL SEEK MEETING.

13. LETTER TO ME ABOUT THEIR EFFORTS!

C-14 14. S.O.S. PAMPLET, WHERE I SPOKE!

C-15 15. SUBSTANDARD STEEL KINDER MORGAN REMOVES

PAGE (4)

C-15) 15. 7,100 FEET OF BAD PIPES, THEN DOWNGRADES THE REST FROM (X-70, TO X-65) BECAUSE OF THIS, KINDER MORGAN BUYS PIPES THRU CORINTH PIPEWORKS PIPE INDUSTRY S.A. (THESE ARE ILLEGAL DUMPED STEEL) (JUST LIKE THEY DID 2007, THRU 2009)

C-16 16. 7 PICTURES, TWO SHOW BELOW X-70, ONE SHOW PIPES CLOSER THAN 10 FEET!
TWO SHOW MADED IN GREECE (REALLY IN FRANCE) SERIAL NUMBERS MATCH ILLEGAL DUMPED STEEL!
TWO SHOW BAD WELDS
FIRST ONE HAS RIVETS HOLDING SLEEVE IN PLACE, OPPOSITE SHOWS WELD THAT WAS USED TO HOLD SLEEVE IN PLACE!
~~(NOTICE THAT IT WAS GROUND DOWN) EITHER THIS, OR THIS PIPE WAS CRACKED ON ITS ENDS~~

C-17 17. FEDERAL REGISTER, WARNING X-70 PIPES WERE THICK AND THIN, HARD TO WELD!

C-24 18. KIM FLEETS REBUTTAL!

C-4 SIX PICTURES SHE TOOK SHOWING PIPES IN WATER. TO CLOSE TOGETHER (NOT TEN FEET) TWO WHICH STILL HAVE SLING ON

PAGE
FIVE

C-19 19. PIPELINE SAFETY (CLASS LOCATION, CHANGE REQUIREMENTS) THIS IS THE LOOPHOLE I WAS TALKING ABOUT TO USE REGULATION FOR THE GRADES OF PIPE BEING USED.

~~C-20) 20 PICTURES SHOWING BLAST ZONE.~~

~~21)~~

22) CELL TOWER, CLOSE ENOUGH TO BE IGNITION SOURCE

C-23, 21 ARTICLE (STATE IMPACT, 3/21/2019)

22. STUPP ORDER FORM, FOR 20 INCH PIPE X-65.

C-15 23 FACT SHEET, SHOWS DUMPING STEEL ON U.S.A. MARKETS DURA-BOND INDUSTRIES (STEELTON PA.) STUPP CORPORATION (BATON ROUGE) PETITIONERS, TO THIS COMPLAINT. ARCELOR MITTAL IN FRANCE IS MAKING THESE PIPES, NOT GREECE ARCELOR MITTAL IS IN STEELTON ALSO!

24. CORINTH PIPEWORKS ORDER FORM (KINDER MORGAN ORDERED THIS)

C-13, 25 MY TRAINING BEGINNING (AUG 28, 1991,) RESPIRATOR TRAINING 1/30/98) RAPID RESPONSE MEMBER UNTIL I RETIRED, AND REMAINING ACTICE, LAST YEAR 2018, SPEAKING FOR THE

PAGE
SIX

C-13, 25, UNITED STEELWORKERS AT THE STATE CAPITOL!
26 MR. ZURCHER TESTIFED TO THIS AT ANDY DINNIMAN CASE! 7 PAGES!
27 PICTURE of PIPES TO CLOSE
28. TWO PAGES FROM SUNOCO THAT CONTRADICT EACH OTHER
SPLP EXHIBIT 23, PAGE 54 of 318,
SPLP EXHIBIT 23, PAGE 59 of 318.
FIRST YOU CAN SMELL IT, THEN YOU CANT!
~~29. THREE PAGES of LAWS THAT HAVE BEEN BROKEN. TAKE YOUR PICK!~~
30 SPLP-B-000276, BLAST ZONE ½ MILE NOT 1,000 FEET! MY LAND IS WITHIN A 1,000 FEET
31. PICTURE FROM SUNOCO USING CHAIN TO BRING PIPES TOGETHER. THEY USE SLINGS TO PUT INTO GROUND!

I BELIEVE THIS TO BE EVIDENCE ENOUGH TO BRING ABOUT CHANGE!

Sincerely Your
Wilmer J. Baker

	1.	LETTER FROM HAWKE, MCKEON, AND SNISCAK L.L.P. REQUESTING CLARIFICATION.
	2	SUNOCO'S BENCH MEMORANDUM LACK OF LEGAL REPRESENTATION.
	3	SUNOCOS BENCH MEMORANDUM STANDARDS FOR WITNESSES
	4.	UPPER FRANKFORDS TOWNSHIP SIGN IN SHEETS (6 PAGES)
	5.	CERTIFICATE OF COMPLETION !
	6.	SUNOCO'S RESPONDERS LIST (6 PAGES, 2015
	7	SUNOCOS MERO SIGN IN (7 PAGES, 2017)
	8	SPLP B. 000386, 2 PAGES MERO SIGN IN (2014, THRU 2017)
C-1	9	LETTER FROM TOWNSHIP (JUNE 11, 2018)
C-2	10	SAFETY MESSAGE
	11	NEWS ARTICLE (JULY 14, 2018)
C-8	12	LETTER, SUPERVISORS REFUSE TO BE TRAINED FIRST RESPONDERS
	13	LETTER TO TOWNSHIPS LAWYERS NO REPRESENTATION FOR US !
	14	CUMBERLAND COUNTY COMMISSIONER ASK FOR MEETING (AUG, 15, 2018)
	15	LETTERS TO MATT RAMSEY FROM COUNTY COMMISSIONERS (3 LETTERS)
C-11	16	LETTER TO PUC FROM COMMISSIONERS (GLADYS BROWN, ROBERT F YOUNG)
	17.	NEWS ARTICLE (COMMISSIONERS, SEEK MEETING)

18. LETTER TO ME FROM COMMISSIONERS ABOUT THEIR INVOLVEMENT
19. S.O.S. RALLY (I SPOKE THERE)
C-15 20. SUBSTANDARD STEEL (FREEDOM, OF INFORMATION, PLAINS JUSTICE)
21. 7 PICTURES KIM. FLEET TOOK
22. FEDERAL REGISTER, 3 PAGES
C-24, 23. KIM FLEETS REBUTTAL (6 PICTURES, SHE TOOK!
24. PIPELINE SAFETY, CLASS LOCATION, CHANGE REQUIREMENTS (POPULATION
C-20, 25. C-20, 21, 22, 22)
26. STATE IMPACT (HIGH PRESSURE CONCERN
27. STUPP ORDER FORM (20 INCHES, X-65)
28. FACT SHEET (IMPORT, X 70, 16 INCH)
29. CORINTH PIPEWORKS, S.A,
30. BEGINING MY EMERGENCY RESPONSE TRAINING (AUG, 26, 1991
31. RAPID RESPONSE (DISTRICT 10, 1991, THRU 2018)
32. RESPIRATOR TRAINING (1, 30, 1998)
33. S.P.L.P, EXHIBIT 21 (JOHN ZURCHER)
34. PICTURE (10 FEET APART)?
35. SPLP EXHIBIT, 23, PAGE 54 of 318
36. SPLP EXHIBIT, 23, PAGE 64 of 318
37. LAWS BROKEN BY MARINER EAST
38. AGAIN LAWS THAT ARE BEING BROKE
39. MY REVIEW of BROKEN LAWS!
40. SPLP-B-000276 (BLAST ZONE, 1/2 MILE)!
41. PICTURE of CHAIN PULLING PIPE TOGETHER

Wilmer Baker, Reply Brief Submission
Received September 18, 2019, Page 9 of 173

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May 6, 2019

Wilmer J. Baker
430 Run Road
Carlisle, PA 17015

Re: Wilmer Baker v. Sunoco Pipeline L.P.; Docket No. C-2018-3004294; **CORRESPONDENCE TO ADMINISTRATIVE LAW JUDGE ELIZABETH BARNES**

Dear Mr. Baker:

Enclosed you will find a copy of correspondence/email addressed to ALJ Barnes requesting clarification of the May 3, 2019 Order.

If you have any questions regarding this letter and the enclosed, please contact the undersigned.

Very truly yours,

Thomas J. Sniscak
Kevin J. McKeon
Whitney E. Snyder
Counsel for Sunoco Pipeline L.P.

WES/das
Enclosure

Debbie A. Schreffler

From: Whitney Snyder
Subject: FW: C-2018-3004294; Baker v. SPLP

From: Whitney Snyder
Sent: Monday, May 06, 2019 3:30 PM
To: 'ebarnes@pa.gov' <ebarnes@pa.gov>
Cc: Thomas Sniscak <tjsniscak@hmslegal.com>
Subject: C-2018-3004294; Baker v. SPLP

Judge Barnes,

On behalf of Sunoco Pipeline L.P., we respectfully request clarification of your May 3, 2019 Order in Baker v. SPLP. We understand your ruling to mean that the parties are only required to submit witness statements summarizing testimony to be given at hearing along with proposed exhibits. We also seek clarification that SPLP will be held to the same standard for its May 27, 2019 rebuttal submission (ie. that we will present statements summarizing the testimony of the witness to be given at hearing along with exhibits, but will not be filing actual written testimony, and will be allowed to present our testimony in person at hearing).

I will mail a copy of this email to Mr. Baker.

Thank you,

Whitney E. Snyder

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NEW IRS RULES RESTRICT WRITTEN FEDERAL TAX ADVICE FROM LAWYERS AND ACCOUNTANTS THIS STATEMENT IS INCLUDED IN OUTBOUND EMAILS BECAUSE EVEN INADVERTENT VIOLATIONS MAY BE PENALIZED NOTHING IN THIS MESSAGE IS INTENDED TO BE USED, OR MAY BE USED, TO AVOID ANY PENALTY UNDER FEDERAL TAX LAWS. THIS MESSAGE WAS NOT WRITTEN TO SUPPORT THE PROMOTION OR MARKETING OF ANY TRANSACTION.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

WILMER BAKER	:	
	:	
Complainant,	:	
	:	
v.	:	
	:	Docket No. C-2018-3004294
SUNOCO PIPELINE L.P.	:	
	:	
Respondent.	:	
	:	

Sunoco Pipeline L.P. Bench Memorandum

To: Administrative Law Judge Elizabeth Barnes

Date: July 17, 2019

Re: When litigants proceed *pro se*, they assume the risk that their lack of expertise and legal training will prove their undoing

It is well established in Pennsylvania law and the Commission's precedent that when a lay person proceeds *pro se* in a legal proceeding, they assume the risk that their lack of expertise and legal training may negatively affect their case. As the Pennsylvania Supreme Court has explicitly held, "It is, we believe, preferable to simply recognize, as the Commonwealth Court has previously done, that 'any layperson choosing to represent himself in a legal proceeding must, to some reasonable extent, assume the risk that his lack of expertise and legal training will prove his undoing.'" *Vann v. Com., Unemployment Comp. Bd. of Review*, 508 Pa. 139, 148 (1985)(emphasis added); quoting *Groch v. Unemployment Compensation Board of Review*, 81 Pa.Cmwlth. 26, 30, 472 A.2d 286, 288 (1984)). See also *Dolores Herring v. Metropolitan Edison Company*, No. F-2016-2540875, 2017 WL 3872590, at *3 (Order entered August 31, 2017) (The Commission, citing *Vann* and *Groch*, adopted the ALJ's initial decision, noting "the Complainant in this case proceeded *pro se* by choice and bore the risk of doing so.")

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

WILMER BAKER Complainant, v. SUNOCO PIPELINE L.P. Respondent.	:	Docket No. C-2018-3004294

Sunoco Pipeline L.P. Bench Memorandum

To: Administrative Law Judge Elizabeth Barnes

Date: July 17, 2019

Re: Expert qualifications, Lay witness testimony, Authenticating documents, Hearsay evidence

A. **Standards for Expert Qualification**

Pa. R.E. 702 sets forth the standard for the qualification of expert witnesses and provides that:

> A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:
> (a) the expert's scientific, technical, or other specialized knowledge is beyond that possessed by the average layperson;
> (b) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue; and
> (c) the expert's methodology is generally accepted in the relevant field.

225 Pa. Code Rule 702; *see Randall v. PECO Energy Co.*, No. C-2016-2537666, 2019 WL 2250792, at *43 (Pa. P.U.C. May 9, 2019), *citing Gibson v. WCAB*, 580 Pa. 470, 485-86, 861 A.2d

939, 947 (Pa. 2004) (holding, in part, that notwithstanding the statutory maxim of 2 Pa. C.S. § 505, which mandates a relaxation of the strict rules of evidence in agency hearings and proceedings, the "evidentiary Rules 602, 701, and 702 are applicable to agency proceedings in general..."). To the extent a witness is found to possess specialized knowledge to qualify as an expert on certain subject matters, **the witness's expert testimony is limited to those issues within their specific expertise**. *See Bergdoll v. York Water Co.*, No. 2169 C.D. 2006, 2008 WL 9403180, at *8–9 (Pa. Cmwlth. 2008) (unreported) (prohibiting independent contractors from offering expert testimony on water source and cause of sewer blockage; while witnesses were qualified to offer certain testimony as to facts and the extent of damage at issue, the source of the water and cause of the sewer blockage at issue "was not within their expertise"); *see also, Application of Shenango Valley Water Co.*, No. A-212750F0002, 1994 WL 932364, at *19 (Jan. 25, 1994) (President of water company was "not qualified to provide expert testimony regarding the ratemaking value of utility property" when, notwithstanding his skills and expertise as to the operation of a public utility, he was "...not a registered professional engineer and has never been a witness concerning valuation of utility property in any proceeding before the Commission... lacks of knowledge regarding standard ratemaking conventions concerning capital stock as an item of rate base, cash working capital and the ratemaking requirements of Section 1311 of the Public Utility Code.")(internal record citations omitted).

B. Lay Witness Testimony is Limited to Direct Personal Knowledge

Lay opinions on matters requiring scientific, technical or specialized knowledge are not competent evidence to support a finding of fact. Pa. R.E 701(c) ("If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is ... not based on scientific, technical, or other specialized knowledge within the scope of Rule 702."). Although the Pennsylvania Rules of Evidence are not strictly adhered to by the Commission, **the Pennsylvania**

Attachment A.0 - Agencies at MERO Trainings in Cumberland County, PA

Agency	Total Agencies Each Agency	5/7/2016 MEA MERO	6/7/2015 MEA Pump Station Operations	6/29/2015 MEA MERO	10/25/2015 MEA Pump Station Operations	5/16/2017 MEA MERO	10/16/2017 MEA MERO
Camp Hill Borough	1						1
Carlisle Borough	1						1
Citizen Fire	5		5				
Cumberland County DPS	8	3				2	3
Cumberland County FTF	1	1					
Cumberland County Hazmat	2	1				1	
Cumberland County LEPC	2		1				1
Cumberland Navy Fire	5	1	2				2
East Pennsboro Fire	3		1				2
Friendship Hose (Cumberland)	8			7	1		
Hampden Twp Fire Co	17	3	9				5
Hampden Twp. Police	2		2				
Lower Allen Twp Fire Co #1	1	1					
Lower Frankford Twp	2	1					1
Lower Mifflin Twp	1	1					
Mechanicsburg EMA	1						1
Middlesex Twp	1	1					
New Kingston Fire Company (NKFC)	9					9	
North Middleton Twp	1	1					
North Middleton Twp Fire Co	1	1					
PA State Police - Cumberland Co.	1	1					
Penn and Cooke Twp (Cumberland)	2						2
Penn Twp. VFC (Cumberland)	2			2			
Shiremanstown Borough	3	1					2
Shiremanstown Fire	4		4				
Silver Spring Ambulance	4					4	
Silver Spring Fire Department	1					1	
Silver Spring Twp	2					2	
Silver Spring Twp EMA	5	1				3	1
Silver Spring Twp PD	2					1	1
South Newton Township VFC	4			4			
Upper Allen Fire	7		7				
Upper Frankford Fire Co	29	4		15	10		
US Dept. Homeland Security	1		1				
West Pennsboro EMA	1				1		
West Pennsboro VFC	14	2		4	7		1
Grand Total	***154***	***24***	***32***	***32***	***19***	***23***	***24***

Supreme Court has recognized that any relaxation of the rules of evidence in administrative settings cannot permit lay witnesses to testify to technical matters "without personal knowledge or specialized training." *Gibson v. W.C.A.B.*, 861 A.2d 938, 947 (Pa. 2004) (holding Rules of Evidence 602 (personal knowledge), 701 (opinion testimony by lay witnesses) and 702 (testimony by expert witnesses) generally applicable in agency proceedings); Nancy Manes, C-20015803, 2002 WL 34559041, at *1 (May 9, 2002) (the Commission abides by the Pennsylvania Supreme Court's standard "that a person qualifies as an expert witness if, through education, occupation or practical experience, the witness has a reasonable pretension to specialized knowledge on the matter at issue."). Accordingly, **the Commission has consistently found that a lay witness is not qualified to testify or offer exhibits related to any issues outside of direct personal knowledge**. *Lamagna v. Pa. Elec. Co.*, C-2017-2608014, 2018 WL 6124353, at *20 (Oct. 30, 2018) (lay witness was "not qualified to testify or offer exhibits related to health and safety issues outside of her direct personal knowledge."). Moreover, **to the extent a lay witness offers references to reports or conclusions of others, these may not be considered as substantial evidence because a lay witness cannot rely on such information in reaching a conclusion** – rather, that is the role of a qualified expert witness. *Compare* Pa. R.E. 701 *with* Pa. R.E. 703.

While a fact finder may weigh the opinion testimony of a qualified expert, any such testimony of an unqualified lay witness must be excluded and should not be given any evidentiary weight. *Gibson v. W.C.A.B.*, 861 A.2d 938, 947 (Pa. 2004); *Miller v. Brass Rail Tavern, Inc.*, 664 A.2d 525, 528 (Pa. 1995). Accordingly, **the Commission has consistently found that lay witness testimony on technical issues such as health, safety, and the probability of structural failure as these necessarily "*require* expert evidence to be persuasive enough to support the**

proposing party's burden of proof." *Application of PPL Elec. Utilities Corp.*, A-2009-2082652, 2010 WL 637063, at *11 (Jan. 14, 2010) (emphasis added); *Pickford v. Pub. Util. Comm'n*, 4 A.3d 707, 715 (Pa. Cmwlth. 2010) (ALJ "properly disregarded" testimony from 13 lay witnesses related to concerns and personal opinions about damage to pipes, lead leaching, toxicity to fish and home filtration expenses because "the nature of these opinions ... was scientific and required an expert."); *Lamagna v. Pa. Elec. Co.*, C-2017-2608014, 2018 WL 6124353, at *20 (Oct. 30, 2018) (finding that lay witness testimony and exhibits regarding technical health and safety issues "carry no evidentiary weight and ... were properly objected to and excluded.).

Moreover, that a lay witness may possess some level of knowledge and education in a related subject does not make him an expert on specialized and technical matters such as geology, pipeline construction, pipeline safety, or emergency response, and such unqualified testimony is not credible evidence. *See* Opinion and Order, *Amended Petition of State Senator Andrew E. Dinniman for Interim Emergency Relief*, P-2018-301453 *et al.* (June 14, 2018) (acknowledging lack of expert testimony regarding technical geological concerns, thereby necessarily rejecting testimony of lay witness on geological issues without regard for lay witness's purportedly related education and experience.); *see also*, Joint Statement of Commissioners Coleman and Kennard, *Amended Petition of State Senator Andrew E. Dinniman for Interim Emergency Relief*, P-2018-301453 *et al.* (June 14, 2018) (acknowledging "no credible *evidence of record* to indicate that a clear and present danger exists with respect to the construction activities on ME2 and ME2X in West Whiteland Township" when hearing transcript was "devoid of any expert witness testimony that, to a reasonable degree of scientific certainty, there is a credible and immediate harm with the construction of these lines.").

C. Authenticating an item of evidence

> Pursuant to Rule 901 of the Pennsylvania Rules of Evidence, parties to a hearing are required to satisfy the requirement of authenticating or identifying an item of evidence. To do so, "the proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is." Pa.R.E. 901. The rationale for requiring authentication is that it provides a measure of protection against fraud or mistaken attribution of a writing to a person who fortuitously has the same name as the author. *Commonwealth v. Brooks*, 508 A. 2d 316 (Pa. Super. 1986); *Commonwealth v. Harrison*, 434 A.2d 808 (Pa. Super. 1981). Improper authentication can lead to reversal on appeal. *Kopytin v. Aschinger*, 947 A.2d 739 (Pa. Super. 2008). As it is the duty of the ALJ to ensure that the evidentiary record is solid and reliable, permitting improper authentication is a breach of that duty.

Evangeline Hoffman-Lorah v. PPL Electric Utilities Corporation, Docket No. C-2018-2644957, Initial Decision at 16 (Nov. 14, 2018)(ALJ Barnes).

D. Hearsay

> Hearsay is an out-of-court statement made by a declarant that is offered by a party to prove the truth of the matter asserted in the statement. See Pa.R.E. 801. The general rule against hearsay is that hearsay is inadmissible at trial unless it falls into one of the recognized exceptions to the hearsay rule pursuant to the Pennsylvania Rules of Evidence, other rules prescribed by the Pennsylvania Supreme Court, or statute. See Pa.R.E, 801, 802, 803, 803.1, 804. The rationale for the rule against hearsay is that hearsay lacks the guarantees of trustworthiness to be considered by the trier of fact; however, exceptions have been fashioned to accommodate certain classes of hearsay that are substantially more trustworthy than hearsay in general, and thus merit exception to the rule against hearsay. See e.g. *Commonwealth v. Kriner*, 915 A.2d 653 (Pa. Super. 2007); *Commonwealth v. Cesar*, 911 A.2d 978 (Pa. Super. 2006); *Commonwealth v. Bruce*, 916 A.2d 657 (Pa. Super. 2007).
> Under the relaxed evidentiary standards applicable to administrative proceedings, see 2 Pa. C.S. § 505, it is well-settled that simple hearsay evidence, which otherwise would be inadmissible at a trial, generally may be received into evidence and considered during an administrative proceeding. *D'Alessandro v. Pennsylvania State Police*, 937 A.2d 404, 411, 594 Pa. 500, 512 (2007) (D'Alessandro). The Supreme Court of Pennsylvania stated: "Hearsay is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." Pa.R.E. 801(c). Hearsay evidence is normally inadmissible at trial unless an exception provided by the Pennsylvania Rules of Evidence, jurisprudence, or statute is applicable. Pa.R.E. 802. Complicating this general rule in the administrative law context, however, is Section 505 of the Administrative Agency Law: "Commonwealth agencies shall not be bound by technical rules of evidence at agency hearings, and all relevant evidence of reasonably probative value may be received. Reasonable examination and cross-examination shall be permitted." 2 Pa. C.S. § 505. Therefore, hearsay evidence may generally be received and considered during an administrative

proceeding. See *A.Y. v. Pa. Dep't of Pub. Welfare, Allegheny County Children & Youth Serv.*, 537 Pa. 116, 641 A.2d 1148, 1150 (1994).

However, whether simple hearsay may support a finding of an agency depends on whether the evidence meets the criteria of the *Walker/Chapman* rule. The *Walker/Chapman* rule provides that simple hearsay evidence may support an agency's finding of fact so long as the hearsay is admitted into the record without objection and is corroborated by competent evidence in the record. See *Walker v. Unemployment Compensation Board of Review*, 367 A.2d 366, 370 (Pa. Cmwlth. 1976) (*Walker*) (citations omitted); see also *Chapman v. Unemployment Compensation Board of Review*, 20 A.3d 603, 610, n.8 (Pa. Cmwlth. 2011) (*Chapman*).

Under Pennsylvania's *Walker/Chapman* Rule, it is well-established that "[h]earsay evidence, properly objected to, is not competent evidence to support a finding." Even if hearsay evidence is "admitted without objection," the ALJ must give the evidence "its natural probative effect and may only support a finding . . . if it is corroborated by any competent evidence in the record," as "a finding of fact based solely on hearsay will not stand." *Walker* at 370 (citations omitted).

To be "properly objected to" in an administrative proceeding, the hearsay evidence must not fall within one of the recognized exceptions to the rule against hearsay. Hearsay that falls within one of the recognized exceptions to the hearsay rule is competent evidence that may be relied upon by the agency. See *Chapman*, supra, n. 8 (finding that the Board properly relied upon a party's admission as competent evidence as a recognized exception to the hearsay rule); see also *Sanchez v. PPL Electric Utilities Corporation*, Docket No. C-2015- 2472600 (Order entered July 21, 2016) (*Sanchez*) (finding that testimony related to the issuance of a termination letter fell within the business records exception to the hearsay rule, and, therefore, was not simple hearsay, and was competent evidence to be relied upon in the proceeding to determine whether the complainant satisfied her burden of proof); see also Pa.R.E. 802, 803, 803.1 and 804.

Moreover, hearsay cannot corroborate hearsay. See *Sule v. Philadelphia Parking Authority*, 26 A.3d 1240, 1244 (Pa. Cmwlth. 2011), citing *J.K. v. Department of Public Welfare*, 721 A.2d 1127, 1133 (Pa. Cmwlth. 1998) (noting substantial evidence did not exist because there was no non-hearsay evidence to corroborate hearsay testimony).

Evangeline Hoffman-Lorah v. PPL Electric Utilities Corporation, Docket No. C-2018-2644957.

Initial Decision at 16-18 (Nov. 14, 2018)(ALJ Barnes).

The following attended the meeting of the Board of Supervisors of Upper Frankford Township on **July 30, 2018.** Anyone desiring to speak during the Public Comment period must provide his or her name and address upon arriving at the meeting. Thank you for your cooperation.

	NAME (PRINT)	ADDRESS
1.	[illegible]	50 Lonesome Rd.
2.	[illegible]	[illegible]
3.	[illegible]	[illegible]
4.	[illegible]	[illegible]
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The following attended the meeting of the Board of Supervisors of Upper Frankford Township on **August 27, 2018.** Anyone desiring to speak during the Public Comment period must provide his or her name and address upon arriving at the meeting. Thank you for your cooperation.

	NAME (PRINT)	ADDRESS
1.	[redacted]	[redacted]
2.	[redacted]	[redacted]
3.	[illegible]	180 Front Street Box 180-
4.	[illegible]	2 W. Main St. Apt. C Newburg
5.	[illegible]	147-Park Heights Av. Shipp PA
6.	Troy Stought	515 Rock Run Rd.
7.	[illegible] SHOEMAKER	179 Hoover Rd, Newville PA 17241
8.	[illegible] L. WISER	P.O. Box 181 Newville PA 17241
9.	Logan Jones	143 Foxhunt Road Carlisle PA 17015
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The following attended the meeting of the Board of Supervisors of Upper Frankford Township on **September 10, 2018.** Anyone desiring to speak during the Public Comment period must provide his or her name and address upon arriving at the meeting. Thank you for your cooperation.

	NAME (PRINT)	ADDRESS
1.	Tim Hockenberry	50 Lonesome Rd.
2.	[redacted]	[redacted]
3.	[redacted]	[redacted]
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The following attended the meeting of the Board of Supervisors of Upper Frankford Township on **September 24, 2018.** Anyone desiring to speak during the Public Comment period must provide his or her name and address upon arriving at the meeting. Thank you for your cooperation.

	NAME (PRINT)	ADDRESS
1.	[illegible]	[illegible]
2.	Andrea Ramos	725 Bloscville Rd.
3.	[redacted]	[redacted]
4.	[redacted]	[redacted]
5.	[illegible]	4100 Enola Rd
6.	Bill Stapp	4100 Enola Rd
7.	Jeff Stapp	[illegible] Rd
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11.	NO DRIVER	
12.	LICENSE FOR THREE	
13.	FIRE DRIVERS	
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The following attended the meeting of the Board of Supervisors of Upper Frankford Township on **October 30, 2018**. Anyone desiring to speak during the Public Comment period must provide his or her name and address upon arriving at the meeting. Thank you for your cooperation.

	NAME (PRINT)	ADDRESS
1.		
2.	[redacted]	[redacted] Road
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The following attended the meeting of the Board of Supervisors of Upper Frankford Township on **December 3, 2018**. Anyone desiring to speak during the Public Comment period must provide his or her name and address upon arriving at the meeting. Thank you for your cooperation.

	NAME (PRINT)	ADDRESS
1.	[redacted]	
2.	Wilmer J Baker	
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C-5

CERTIFICATE OF COMPLETION

2 In-Service Credit Hours

Awarded to:

STEVE ARMOLD

for attendance of the following program:

Pipeline Emergency Response & Awareness for Excavator Operations

Attended: September 24, 2014 Chambersburg, PA

Paradigm Learning Services

Steve Roberts

Steve Roberts
Director of Corporate Training

5

Sunoco Logistics

Sunoco Logistics Mariner East-1 Emergency Responder Attendance List

ME-1

March 28, 2018 Mechanicsburg Pump Station Orientation

Name (Please print clearly)	State	County	Township/Municipality	Agency/Department Position Title	Email	Phone
Frank Rechnagel	PA	Cumberland SVL	SXL	HES+S		
CHRIS EMBRI	PA	Cumberland SVL	"	"		
Curt Stambaugh	PA	Cumberland	SXL	Gen. Counsel		
DENNIS KELLY	PA	Cumberland	SXL	SAFETY		
PAUL ESWORTHY	PA	Cumberland	SXL	PIPELINES		
John Foltz	PA	Cumberland	SXL	Pipeline Ops		
Mark A. Macri's	PA	Cumberland	SXL	Pipeline ops		
Stephanie Welch	PA	Cumberland	SXL	HES+S		
KEVIN WAGNER	PA	Cumberland	MBG	CITIZENS - FF		
Brian Heisey	PA	Cumberland	MBG	CITIZENS - FF		
Douglas Boyd	PA	Cumberland	MBG	Citizens- EMT/FF		
TOM BENDER	PA	Cumberland	MBG	CITIZENS SAFETY		
STEVEN LUNEN	PA	Cumberland	HAMPDEN	POLICE DEPT		
JON DOERFLINGER	PA	Cumberland	HAMPDEN	CAPTAIN 130		
Rick Dayton	PA	Cumberland	Shiremanstown	Fire Chief		
KEN DEAN	PA	Cumberland	UAFD 23	Firefighter		
Ken Kise	PA	Cumberland	UAFD 23	Firefighter		
TIM SHUMBERGER	PA	Cumberland	UAFD 23	DEP CHIEF		
	PA	Cumberland				
	PA	Cumberland				
	PA	Cumberland				
	PA	Cumberland				
	PA	Cumberland				
	PA	Cumberland				

Wilmer Baker, Reply Brief Submission
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Sunoco Logistics

Sunoco Logistics Mariner East 1 Emergency Responder Attendance List

ME 1

March 28, 2015 Mechanicsburg Pump Station Orientation

Name (Please print clearly)	State	County	Township/Municipality	Agency/Department Position Title	Email	Phone
Doug Gochenour	PA	Cumberland	Hampden Twp	Hampden Twp EMA		
Timothy Sheely	PA	Cumberland	U.S. Navy	Navy Fire		
David Cuddeback	PA	Cumberland	U.S. Navy	Navy Fire		
Mike Taylor	PA	Cumberland	Hampden Twp / Cumberland County	Hampden Fire / County Hazmat		
Jim WIBLE	PA	Cumberland	HAMPDEN TWP	HAMPDEN FIRE		
Frank Coyle	PA	Cumberland	Hampden	"		
Steve Spangler	PA	Cumberland	Hampden/Lemoyne	CUMB COUNTY LEPC		
Tony BAICH	PA	Cumberland	HAMPDEN TWP FIRE	HAMPDEN FIRE		
Tiffany Robinson	PA	Cumberland	Hampden Twp.	Hampden Fire		
ANTHONY PANUSETH	PA	Cumberland	HAMPDEN TWP	HAMPDEN TWP FIRE		
ERIK OLVER	PA	Cumberland	EAST PENNSBORO	Cumberland Town Twp		
STEVE WHITE	PA	Cumberland	—	US DOES ID		
SHAWN FELTY	PA	Cumberland	HAMPDEN	HAMPDEN PD		
KARL HEFFNER	PA	Cumberland		HEPAC's		
RICHARD GARDMAN	PA	Cumberland	MBG	CITIZEN 27-FF		
SIMON HERTZLER	PA	Cumberland	SHIREMANSTOWN	SHIREMANSTOWN FC 22		
Meghan Hertzler	PA	Cumberland	Shiremanstown	Shiremanstown 22 FF/EMT		
BRAD WRIGHT	PA	Cumberland	SHIREMANSTOWN	ASST CHIEF		
JIM SALTER	PA	Cumberland	UPPER ALLEN TWP	CHIEF		
Kevin Prest	PA	Cumberland	Upper Allen Twp	Firefighter		
Joey Hetrick Firefighter	PA	Cumberland	UPPER ALLEN TWP	ASST. Engineer		
Zachary Shumberger	PA	Cumberland	Upper Allen Twp	Sergeant		
DANIEL FLINT	PA	Cumberland	HAMPDEN TWP.	FIREFIGHTER		
	PA	Cumberland				

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Sunoco Logistics Mariner East-1 Emergency Responder Attendance List

April 29, 2015 Upper Frankford / Newville Cumberland County PA

Name (Please print clearly)	State	Township/Municipality	Agency/Department Position Title	Email	Phone
Dan Burkett	PA	South Newton Twp	South Newton Twp VFC - Chief		
David Durff	PA	"	South Newton Twp VFC - Firefighter		
Will Davis	PA	"	South Newton Twp VFC - Lt.		
Brian Heckenberry	PA	"	South Newton Twp VFC - Firefighter		
ANGELA MILLER	PA	UPPER FRANKFORD	UFFC		
Kalie Bistline	PA	Upper Frankford	UFFC		
Chuck Bistline	PA	Upper Frankford	UFFC		
Grawin Stets	PA	Upper Frankford	UFFC - Firefighter		
Jeff Shapp	PA	Upper Frankford	UFFC - Firefighter		
Jena Baum	PA	Upper Frankford	UFFC - Firefighter		
Chivara Beidel	PA	Upper Frankford	UFFC - EMS		
Nikki Sharm	PA	Upper Frankford	UFFC - EMS Coordinator		
Russell C Kulp JR	PA	West Pennsboro	WPVFC		
Mike Wolf	PA	Newville Borough	Friendship Hose - Newville		
Elmer Twombaugh	PA	Newville Borough	Friendship Hose - Newville		
Jim Ryan	PA	West Pennsboro	West Pennsboro VFC chief		
Shane Neary	PA	West Pennsboro	" " assistant chief		
Darrin Wiechard	PA	West Pennsboro	" " Deputy Chief		
Chris Allen	PA	Penn twp	Penn twp Vol Fire Co Asst Chief		
Doug Sturm	PA	Penn twp.	Penn twp Vol Fire Co Asst Chief		
Timbie Miller	PA	Upper Frankford	UFFC		
Nate Zigler	PA	Newville Borough	Friendship Hose Newville		
Daniel Lehman	PA	Lower Mifflin Twp	Friendship Hose - Firefighter		
Wade Bear	PA	Newville Boro	Friendship Hose Fire Fighter		

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Wilmer Baker, Reply Brief Submission
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Sunoco Logistics Mariner East 1 Emergency Responder Attendance List

April 29, 2015 Upper Frankford / Newville Cumberland County PA

Name (Please print clearly)	State	Township/Municipality	Agency/Department Position Title	Email	Phone
Troy L. WISER	PA	NEWVILLE BOROUGH	FRIENDSHIP HOSE CO FF/EMT	fhc717@aol.com	(717) 446-1155
Derrick W Bobb	PA	NEWVILLE BOROUGH	FRIENDSHIP HOSE CO F.F.		(717) 386-9816
Matthew Helm	PA	Upper Frankford	Upper Frankford Fire Co	littlematt488@hotmail.com	(717) 385-8397
Bryce Whitten	PA	UPPER Frankford	UPPER Frankford fire Co	bryce.whitten4c@gmail.com	(717) 713-9652
Diane Ruth	PA	UPPER FRANKFORD	UPPER Frankford Fire Co.	DRUTH2CC@PA.NET	(717) 226-4758
RICK E. SHOEMAKER	PA	UPPER FRANKFORD	UFFC C-48	RICK.SHOEMAKER@USASHER.COM	717 226-7282
Stephanie Welch	PA	Berks	SXL HCS	smwelch@sunocologistics.com	2157788220
Logan JONES	PA	Upper Frankford	Upper frankford fire CO	Wacker48337@gmail.com	717-713-4351
MATTHEW SETS	PA	UPPER FRANKFORD	UFFC - PRESIDENT	vsmcdevildog26@comcast.net	717-445-2266
Mark A Martin	PA	Lancaster	SXL - Operations	MAMartin@SunocoLogistics.com	610-212-2514
Frank Reckenwald	PA	Delco	SXL - SR+P	—	—
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Sunoco Logistics Mariner East-1 Emergency Responder Attendance List

October 29, 2015 ME-1 Plainfield Pump Station Carlisle / Cumberland County PA

Name (Please print clearly)	State	County	Township/Municipality	Agency/Department Position Title	Email	Phone
Frank Rockenstein	PA	Berks	SXL	SXL EE+P		
Marc Morrin	PA	Lancaster	SPL	OPS Supervisor		
Sherry Banawitz	PA	Dauphin	SXL	SXL Govt Affs		
Curt Stambaugh	PA	Cumberland	SXL	Asst Gen Counsel		
Steph Welch	PA	Berks	SXL	HES		
Dan Lehman	PA	Cumberland	Lower Mifflin Twp.	Friendship Hose Co (Newville)		
Jeff Shupp	PA	Cumberland	Upper Frankford	Upper Frankford		
Dwight Slocum	PA	Cumberland	Upper Frankford	Upper Frankford FM		
Jena Baum	PA	Cumberland	Upper Frankford	UFFC Interior FF		
Katie Bistline	PA	Cumberland	Upper Frankford	UFFC Exterior FF		
RICK STRICKMAKER	PA	CUMB.	" "	" CHIEF HQ		
Duane Ruth	PA	Cumb	Upper Frankford	Deputy chief		
Angie Miller	PA	Cumb.	Upper Frankford	Fire Personnel		
Chuck Bistline	PA	Cumb	Upper Frankford	UFFC Interior FF		
STEVE KRATZ	PA	Dauphin	SXL	Board Group / SXL		
WARNER MYERS	PA	CUMB	WEST PENNSBORO	EMC		
Lonnie McKillip	PA	Cumb.	West Pennsboro	FF/EMT		
Earl Bigler	PA	Cumb	West Pennsboro	EMC		
Keith Secc	PA	Cumb	West Pennsboro	Fire Personnel		
David Weikard	PA	Cumb.	West Pennsboro	Asst Chief		
Blair Peery	PA	"	" "	" "		
[illegible]	PA	"	" "			
Timothy Miller	PA	"	Upper Frankford	FF		
Logan Jones	PA	Cumb	Upper Frankford	Capt		

Sunoco Logistics Mariner East-1 Emergency Responder Attendance List

October 29, 2015 ME-1 Plainfield Pump Station Carlisle / Cumberland County PA

Name (Please print clearly)	State	County	Township/Municipality	Agency/Department Position Title	Email	Phone
Jim Ryan	PA	Cumberland	West Pennsboro	West Pennsboro Chief		
	PA					
	PA					
	PA					
	PA					
	PA					
	PA					
	PA					
	PA					
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	PA					

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Sunoco Pipeline L.P.

MERO

Meeting Sign-in Form

Session Name: Silver Spring Township, Cumberland County MERO
Date: 5/16/2017
Location: Silver Spring TWP Building

Meeting/Attendee/Contact	Organization	Phone	Email
Bill Shirley	CumberlandCountySHOT		
Ken Decker	SYL		
KEEGAN TOOT	NKFC		
Michael Gotshall	NKFC		
Bailey Horning	NkFC		
Jacob Hutchison	NkFC		
Debbie Hoffman	Chief of SilverSpringAmbulan		
Glen Hostetter	SS Twp EMA		
Doug McDonald	SS Twp EMA		
MATTHEW HAMER	SILVER SPRING EMS		

PLEASE PRINT YOUR INFORMATION CLEARLY AS A CERTIFICATE OF ATTENDANCE WILL BE SENT TO YOU

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Sunoco Pipeline L.P.

MERO

Meeting Sign-in Form

Session Name: Silver Spring Township, Cumberland County MERO
Date: 5/16/2017
Location: Silver Spring TWP Building

Meeting Attendee/Contact	Organization	Phone	Email
Matt Hinkle	New Kingstown Fire		
Chris Hunsberger	NKFC		
Carter Heckler	NKFC		
Brindle Fuller	SSFABA		
Shelly Hart	Sunoco	✓	
Steve Kratz	Sunoco	✓	
Brad Bonavon	Sa	✓	
Jason Foster	SSTWP		
Leroy Hippensteel	SSTWP Police		
Ben McDonald	Silver Spring Fire Dept		

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Sunoco Pipeline L.P.

3

MERO

Meeting Sign-in Form

Session Name: Silver Spring Township, Cumberland County MERO
Date: 5/16/2017
Location: Silver Spring TWP Building

Meeting Attendee/Contact	Organization	Phone	Email
Ken Bloom	SXL	/	
Michael Kegerise	SXL	/	
Paul Esworthy	SXL	/	
Curtis Hall	New Kingstown Fire Co		
Michele Parsons	Cumb Co DPS		
Malini Singer	SSARA		
Mike Ott	Silver Spring Community Fire		
Amy Nye	Cumb Co DPS/Hazmat		
Katelyn Hooker	Silver Spring Twp		
Brian Brenneman	New Kingstown Fire		

PLEASE PRINT YOUR INFORMATION CLEARLY AS A CERTIFICATE OF ATTENDANCE WILL BE SENT TO YOU

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SUNOCO PIPELINE
An ENERGY TRANSFER Partnership

MERO

Public Awareness Meeting Sign-in Form

Session Name:
Date: 10/16/17
Location: Cumberland County – Hampden Township FD

Meeting Attendee/Contact (Please Print Legibly)	Organization & Municipality	Phone	Email
Justin Shaulis	Cumberland Co DPS		
Michele Parsons	Cumberland Co DPS		
WAYNE E. MYERS	WEST PENNSBORO TWP		
Ward Ackms	Camp Hill Borough		
Jim Burkholder	Lwr Frankford Twp	NO	RESPONSE
Doug Cocherour	Hampden Township		
Leroy Hippensteel	Silver Spring Twp PD		
Jeffrey S Snyder	Carlisle Boro		
Robert Kough, Jr	Penn & Cooke Twp		
ERNEST BEECHER	PENN & COOKE DEPUTY		
K. THOMAS HOFFECKER	Hampden Twp. Vol. Fire		

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SUNOCO PIPELINE
An ENERGY TRANSFER Partnership

MERO

Public Awareness Meeting Sign-in Form

Session Name:
Date: 10/16/17
Location: Cumberland County – Hampden Township FD

Meeting Attendee/Contact (Please Print Legibly)	Organization & Municipality	Phone	Email
Brad Wright	Shiremanstown Boro		
Joseph mittermaier	Shiremanstown BORO		
STEVE STILO SR	HAMPDEN TWP.		
Chad Kirch	Hampden Twp		
Jim Stickney	CC LEPC		
Erik Owen	East Pennsboro		
Tony Baker	Hampden Twp. Fire Co.		
John Quinn	East Pennsboro		
Randy O'Donnell	Navy Fire		
Tyler M. George	Navy Fire		

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SUNOCO PIPELINE
An ENERGY TRANSFER Partnership

MERO

Public Awareness Meeting Sign-in Form

Session Name:
Date: 10/16/17
Location: Cumberland County – Hampden Township FD

Meeting Attendee/Contact (Please Print Legibly)	Organization & Municipality	Phone	Email
Glen Hostetter	SST EMA		
Mike Taylor	Cumberland DPS		
Nate Wardle	Mechanicsburg EMC		
Gina Greenslate	Energy Transfer		

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SUNOCO PIPELINE
An ENERGY TRANSFER Partnership

(2)

MERO

Public Awareness Meeting Sign-in Form

Session Name:
Date: 10/16/17
Location: Cumberland County – Hampden Township FD

Meeting Attendee/Contact (Please Print Legibly)	Organization & Municipality	Phone	Email
Curtis Stambaugh	Sunoco Pipeline / Dickinson Township	✓	
Stacey Bonamitz	ETP	✓	

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Attachment A.6 – Cumberland County and Lower Frankford Twp. Attendees at MERO Session

Agency/Individual	5/1/2014 ME1 MERO	3/28/2015 ME1 Pump Station Orientation	4/29/2015 ME1 MERO	10/29/2015 ME1 Pump Station Orientation	5/16/2017 ME2 MERO	10/16/2017 ME2 MERO	Grand Total
Cumberland County DPS	3				2	3	8
Amy Nye					1		1
Justin Shaulis						1	1
Michele Parsons	1				1	1	3
Mike Taylor						1	1
Robert Shively Jr.	1						1
Ted Wisz	1						1
Cumberland County Hazmat	1				1		2
Bill Shirky					1		1
Robert Kauffman	1						1
Cumberland County LEPC		1				1	2
Jim Stickney						1	1
Steve Spangler		1					1
Lower Frankford Twp	1					1	2
Jim Burkholder	1					1	2

Attachment A.0 - Agencies at MERO Trainings in Cumberland County, PA

Agency	Total Attendees From Agency	5/1/2014 ME1 MERO	3/28/2015 ME1 Pump Station Operation	4/29/2015 ME1 MERO	10/29/2015 ME1 Pump Station Operation	5/16/2017 ME2 MERO	10/16/2017 ME2 MERO
Camp Hill Borough	1						1
Carlisle Borough	1						1
Citizen Fire	5		5				
Cumberland County DPS	8	3				2	3
Cumberland County FTF	1	1					
Cumberland County Hazmat	2	1				1	
Cumberland County LEPC	2		1				1
Cumberland Navy Fire	5	1	2				2
East Pennsboro Fire	3		1				2
Friendship Hose (Cumberland)	8			7	1		
Hampden Twp Fire Co	17	3	9				5
Hampden Twp. Police	2		2				
Lower Allen Twp Fire Co #1	1	1					
Lower Frankford Twp	2	1					1
Lower Mifflin Twp	1	1					
Mechanicsburg EMA	1						1
Middlesex Twp	1	1					
New Kingston Fire Company (NKFC)	9					9	
North Middleton Twp	1	1					
North Middleton Twp Fire Co	1	1					
PA State Police - Cumberland Co.	1	1					
Penn and Cooke Twp (Cumberland)	2						2
Penn Twp. VFC (Cumberland)	2			2			
Shiremanstown Borough	3	1					2
Shiremanstown Fire	4		4				
Silver Spring Ambulance	4					4	
Silver Spring Fire Department	1					1	
Silver Spring Twp	2					2	
Silver Spring Twp EMA	5	1				3	1
Silver Spring Twp PD	2					1	1
South Newton Township VFC	4			4			
Upper Allen Fire	7		7				
Upper Frankford Fire Co	29	4		15	10		
US Dept. Homeland Security	1		1				
West Pennsboro EMA	1				1		
West Pennsboro VFC	14	2		4	7		1
Grand Total	***154***	***24***	***32***	***32***	***19***	***23***	***24***

C-1

LOWER FRANKFORD TOWNSHIP
1205 Easy Road
Carlisle, PA 17015
(717) 243-0855
FAX (717) 258-4715
e-mail: lowerfrankford@comcast.net

Lower Frankford Township Est. 1920

June 11, 2018

Wilmer Baker
430 Run Road
Carlisle, PA 17015

RE: Pipeline Questions

Mr. Baker:

Thank you for attending the Board of Supervisors meeting on Tuesday, June 5, 2018. I reached out to Sunoco Logistics. The plan is for them to send at least one representative to the next Board of Supervisors meeting that will be held on Tuesday, July 10, 2018 at 7PM. I asked them to bring copies of the "Important Safety Message" flyers.

Respectfully,
Karen M Heishman
Karen M. Heishman, secretary
Lower Frankford Township

CC: Wilmer Baker (717- 258-5231
Dave McGinnis
Thomas Nelson

EXHIBIT C-1

Important Safety Message

for your neighborhood

C2

Sunoco Logistics

Sunoco Pipeline L.P.

Operator of the Inland and Harbor pipeline systems

EIC

24-Hour Emergency Number: 800-786-7440

Non-Emergency Number: 877-705-7271

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You are receiving this brochure because Sunoco Pipeline L.P. operates a pipeline in your community. Our underground pipelines provide a safe and efficient method of transporting a variety of products, including crude oil, gasoline, diesel fuel, kerosene, heating oil, jet fuel, butane, ethane, propane, and natural gas.

Petroleum Pipelines In Your Community

There are almost 200,000 miles of petroleum pipelines in the United States. According to the U.S. Department of Transportation, pipelines are the most reliable and safest way to transport the large volume of natural gas and petroleum used in the United States. Pipelines transport two-thirds of all the crude oil and refined products in the United States. Pipelines are made of steel, covered with a protective coating and buried underground. They are tested and maintained through the use of cleaning devices, diagnostic tools, and cathodic protection. Since Americans consume over 700 million gallons of petroleum products per day, pipelines are an essential component of our nation's infrastructure.

Keeping you safe

Maintaining safe pipeline operations is critical in all areas where we operate. In high population and environmentally sensitive areas known as High Consequence Areas, we perform additional inspections and analyses as part of our Integrity Management Program (IMP). Additional information on our IMP efforts is available on our website: **www.sunocologistics.com**.

811
Know what's below.
Call before you dig.

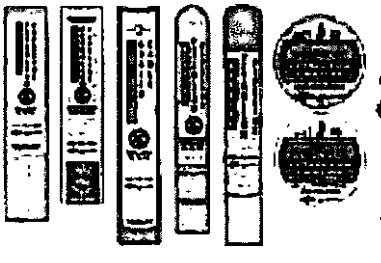
Always call 811 before you dig

One easy phone call to 811 starts the process to have your underground pipelines and utility lines marked. When you call 811 from anywhere in the country, your call will be routed to your state One Call Center, who will contact underground facility owners in the area. So you can dig safely, Sunoco Pipeline personnel will contact you if one of our pipelines are in the area of the planned excavation. More information about 811 is at **www.call811.com**.

How to know where pipelines are located

Most pipelines are underground, where they are more protected from the elements and minimize interference with surface uses. Even so, pipeline rights-of-way are clearly identified by pipeline markers along pipeline routes that identify the approximate—NOT EXACT—location of the pipeline. Every pipeline marker contains information identifying the company that operates the pipeline, the product transported, and a phone number that should be called in the event of an emergency. **Markers do not indicate pipeline burial depth, which will vary.** Markers are typically seen where a pipeline intersects a street, highway or railway. For any person to willfully deface, damage, remove, or destroy any pipeline marker is a federal crime.

Pipeline Markers



Pipeline Marker — This marker is the most common. It contains Sunoco Pipeline information, type of product, and our emergency contact number. Size, shape and color may vary.

Aerial Marker — These skyward facing markers are used by patrol planes that monitor pipeline routes.

Casing Vent Marker — This marker indicates that a pipeline (protected by a steel outer casing) passes beneath a nearby roadway, rail line or other crossing.

How would you recognize a pipeline leak?

While pipelines are the safest method of transporting the fuel and products we use every day, knowing how to recognize a pipeline leak is important. The following may indicate a pipeline leak:

- ***Sight:*** Liquid pools, discolored or abnormally dry soil/vegetation, continuous bubbling in wet or flooded areas, an oily sheen on water surfaces, and vaporous fogs or blowing dirt around a pipeline area can all be indicative of a pipeline leak. Dead or discolored plants in an otherwise healthy area of vegetation or frozen ground in warm weather are other possible signs.
- ***Sound:*** Volume can range from a quiet hissing to a loud roar depending on the size of the leak and pipeline system.
- ***Smell:*** An unusual smell, petroleum odor, or gaseous odor will sometimes accompany pipeline leaks.

What to do in the event a leak were to occur:

- Public safety and protecting the environment are the top priorities.
- ***Turn off*** any equipment and eliminate any ignition sources without risking injury.
- ***Leave the area*** by foot immediately. Try to direct any other bystanders to leave the area. Attempt to stay upwind.
- From a safe location, ***call 911*** or your local emergency response number and call the 24-hour emergency number for the pipeline operator. Provide your name, phone number, a brief description and location of the incident so a proper response can be initiated.

What not to do in the event a leak were to occur:

- ***DO NOT*** cause any open flame or other potential source of ignition such as an electrical switch, vehicle ignition, light a match, etc. Do not start motor vehicles or electrical equipment. Do not ring doorbells to notify others of the leak. Knock with your hand to avoid potential sparks from knockers.
- ***DO NOT*** come into direct contact with any escaping liquids or gas.
- ***DO NOT*** drive into a leak or vapor cloud while leaving the area.
- ***DO NOT*** attempt to operate any pipeline valves yourself. You may inadvertently route more product to the leak or cause a secondary incident.
- ***DO NOT*** attempt to extinguish a petroleum product fire. Wait for local firemen and other professionals trained to deal with such emergencies.

What to do in case of damaging/disturbing a pipeline

If you cause or witness even minor damage to a pipeline or its protective coating, please immediately notify the pipeline company. Even a small disturbance to a pipeline may cause a future leak. A gouge, scrape, dent or crease is cause enough for the company to inspect the damage and make repairs.

All damages to underground gas or hazardous liquid pipeline facilities are required by law to be reported to the operator. Excavators must notify the pipeline company immediately upon damaging a pipeline.

What is a right-of-way and can I build or dig on it?

Sunoco Pipeline works diligently to establish written agreements, or easements, with landowners to allow for ease of construction and maintenance when they cross private property. Rights-of-way (ROW) are often recognizable as corridors that are clear of trees, buildings or other structures except for the pipeline markers. A ROW may not have markers clearly present and may only be indicated by cleared corridors of land, except where farmland or crops exist. County Clerk or Recorder of Deeds offices may also have records of the pipeline easements.

Encroachments upon the pipeline right-of-way inhibit the pipeline operator's ability to reduce the chance of third-party damage, provide right-of-way surveillance and perform routine maintenance and required federal/state inspections. In order to perform these critical activities, pipeline maintenance personnel must be able to easily and safely access the pipeline right-of-way, as well as areas on either side of the pipeline. Keeping trees, shrubs, buildings, fences, structures and any other encroachments well away from the pipeline ensures that the pipeline integrity and safety are maintained.

Before any excavation project on or near Sunoco Pipeline's right-of-way, contact Sunoco Pipeline at 877-795-7271.

How can you help?

While incidents involving pipeline facilities are very rare, awareness of the location of the pipeline, the potential hazards, and what to do if a leak occurs can help to minimize the impact of a pipeline release. A leading cause of pipeline incidents is unauthorized excavation near pipelines. Pipeline operators are responsible for the safety and security of their respective pipelines. To help maintain the integrity of pipelines and their rights-of-way, it is essential that pipeline and facility neighbors protect against unauthorized excavations or other destructive activities. Here's what you can do to help:

- **Become familiar with the pipelines and pipeline facilities in the area (marker signs, fence signs at gated entrances, etc).**
- **Record the operator name, contact information and any pipeline information from nearby marker/facility signs and keep in a permanent location near the telephone.**
- **Be aware of any unusual or suspicious activities or unauthorized excavations taking place within or near the pipeline right-of-way or pipeline facility; report any such activities to the pipeline operators and CALL 911.**

Transmission Pipeline Mapping

The U.S. Department of Transportation's Office of Pipeline Safety has developed the National Pipeline Mapping System (NPMS) to provide information about gas transmission and liquid transmission operators and their pipelines. The NPMS website is searchable by zip code or by county and state, and can display a county map that is printable. For a list of pipeline operators with pipelines in your area and their contact information, go to **www.npms.phmsa.dot.gov/**.

US DOT npms

Usted esta recibiendo este folleto porque Sunoco Pipeline L.P. opera una linea de tuberías en su comunidad. Nuestras líneas de tuberías subterráneas proveen un método seguro y eficiente para el transporte de varios productos, incluyendo el petróleo crudo, la gasolina, el combustible diesel, querosén, aceite para calefacción, combustible para jets, butano, etano, propano y el gas natural.

Oleoductos en su comunidad

Existen más de 200,000 millas de líneas de petróleo en los Estados Unidos. De acuerdo al Departamento de Transporte de EE.UU., las líneas de tuberías son el método más fiable y seguro de transportar el gran volumen de gas natural y petróleo utilizado en los Estados Unidos. Los oleoductos transportan dos tercios de todo el petróleo crudo y productos refinados en los Estados Unidos. Están fabricados de acero, cubiertos con un revestimiento protector y enterados. Se someten a pruebas y se mantienen mediante el uso de aparatos de limpieza, herramientas de diagnóstico y protección catódica. Debido a que los estadounidenses consumen más de 700 millones de galones de productos de petróleo por día, los oleoductos son un componente esencial de la infraestructura de nuestra nación.

Manteniendo su seguridad

Mantener operaciones seguras de nuestros ductos es primordial en todas las áreas donde operamos. Nosotros ejecutamos inspecciones y análisis adicionales como parte de nuestro Programa de "Manejo de Integridad (IMP)" en áreas de alta población y en áreas ambientalmente sensibles establecidas cómo "Áreas de Altas Consecuencia." La información adicional sobre nuestros esfuerzos de IMP está disponible en nuestro sitio web: **www.sunocologistics.com**.

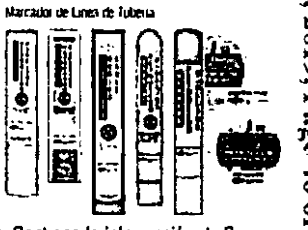
811 Llamá antes de excavar.

Siempre llame al 811 antes de excavar

Una facil llamada al numero 811 da comienzo al proceso para que marquen sus líneas de tuberías subterráneas y de servicios de utilidades. Cuando usted llama al 811 desde cualquier lugar del país, su llamada será transferida al Centro de One-Call (Una-Llamada) de su estado, quienes contactarán a los dueños de esas facilidades en su área.Para que usted pueda excavar con seguridad, un representante de Sunoco Pipeline se contactará con usted si una de nuestras líneas de tuberías se encuentra en el área donde se propone excavar. Usted puede encontrar más información acerca del 811 en el sitio web **www.call811.com**.

Como puede usted saber donde se encuentran localizadas las líneas de tuberías

La mayoría de las líneas de tuberías se encuentran debajo de la tierra, donde están mejor protegidas de los elementos y donde minimizan la interferencia con usos en la superficie. Aun asi, los derechos de paso de las líneas de tubería están claramente identificados con marcadores de líneas de tuberías a lo largo de la ruta de la línea de tubería, los cuales identifican la ubicación aproximada—NO EXACTA—de la línea de tubería. Cada marcador de la línea de tubería contiene información que identifica la compañía que opera la línea de tubería, el producto transportado y un número de teléfono al cual se debe llamar en caso de una emergencia. **Los marcadores no indican la profundidad a la cual una línea de tubería se encuentra enterrada, la cual puede variar.** Los marcadores se pueden ver típicamente donde una línea de tubería atraviesa una calle, autopista o ferrocarril. Es un delito federal que una persona voluntariamente estropee, dañe, quite o destruya un marcador de una línea de tubería.



Marcador de Líneas de Tuberías — Este tipo de marcador es el más común. Contiene la información de Sunoco Pipeline, tipo de producto y nuestro número de contacto en caso de una emergencia. El tamaño, forma y color pueden variar.

Marcador Aéreo — Estos marcadores colocados mirando hacia el cielo son usados por los aviones de patrullas que monitorean las rutas de las líneas de tuberías.

Marcador de Tubos de Ventilación — Este marcador indica que una línea de tubería (protegida por un revestimiento de acero) pasa por debajo de una carretera, ferrocarril u otro cruce

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¿Cómo puede usted reconocer una fuga en una línea de tuberías?

Aun cuando los oleoductos son el método más seguro de transportar el combustible y los productos que usamos todos los días, saber reconocer una fuga en la tubería es importante. Lo siguiente puede indicar una fuga en la tubería:

- ***Vista:*** Charcos de líquido, terreno/vegetación descolorida o anormalmente seca, burbujeo continuo en áreas mojadas o inundadas, un brillo aceitoso en la superficie del agua, niebla de vapor o tierra volando en el aire pueden ser muestras de que ocurre una fuga en la línea de tubería. Otras posibles indicaciones son la presencia de plantas descoloridas o muertas, o terreno congelado durante temporadas caliente.
- ***Sonido:*** El volumen del ruido puede ser desde un silbido silencioso hasta un rugido fuerte, dependiendo del tamaño de la fuga y del sistema de líneas de tuberías.
- ***Olor:*** Un olor inusual, olor a petróleo o un olor gaseoso puede a veces salir de una fuga en una línea de tuberías.

Lo que si debe hacer en el caso de que ocurriese una fuga:

- Las prioridades principales son la seguridad del público y la protección del medio ambiente.
- ***Apague*** cualquier equipo y elimine cualquier fuente de encendido sin ponerse en riesgo a sí mismo.
- Inmediatamente ***salga del área*** caminando. Trate de avisar a otras personas que se encuentren cerca para que se alejen del área. Intente mantenerse en contra del viento.
- Desde un lugar seguro, ***llame al 911*** o a su número local de respuesta a emergencias y llame al número de emergencias de 24-horas del operador de la línea de tuberías. Provee su nombre, número de teléfono, una breve descripción del incidente y la ubicación para así poder iniciar una respuesta apropiada.

Lo que no debe hacer en el caso de que ocurriese una fuga:

- ***NO*** cause ninguna llama ni use otras fuentes potenciales de encendido tales como los interruptores de electricidad, vehículos de ignición, fósforos, etc. No encienda ningún vehículo de motor ni equipo eléctrico. No toque ningún timbre de casa para notificar a las personas acerca de la fuga. Golpee la puerta con su mano para evitar crear chispas con la aldaba.
- ***NO*** se ponga en contacto directo al gas o líquido que se esté escapando.
- ***NO*** maneje hacia ninguna fuga o nube de vapor cuando esté saliendo del área.
- ***NO*** intente operar usted mismo ninguna válvula. Sin quererlo, usted podría dirigir más producto hacia la fuga o causar otro incidente.
- ***NO*** *intente extinguir un fuego de productos de petróleo.* Espere a que los bomberos locales y otros profesionales entrenados manejen la emergencia.

Lo que usted debe hacer en el caso que dañe/disturbe una línea de tubería

Si usted ocasiona o tiene conocimiento de algún daño, por más mínimo que sea, a una línea de tubería o a el revestimiento protector de la tubería, por favor notifique inmediatamente a la compañía de la línea de tubería. Cualquier daño pequeño a una línea de tubería, puede causar una fuga en el futuro. Un agujero, arañazo, dobladura o una arruga pueden ser una causa suficiente para que la compañía tenga que inspeccionar el daño y hacer reparaciones.

Esta requerido por la ley que todos los daños causados a tuberías subterráneas de gas o facilidades líquidos peligrosas sean reporteado a la compañía que opera esas tuberías. Los excavadores deben comunicarse con la compañía de esas tuberías inmediatamente al causar daños.

¿Qué es un derecho de paso y puedo yo construir o excavar en ellos?

Sunoco Pipeline trabaja diligentemente para establecer acuerdos escritos, o servidumbres con los dueños de terreno para así permitir y facilitar el acceso de construcción y mantenimiento cuando atravesamos esas propiedades privadas. Los derechos de paso usualmente se reconocen al ver caminos de terreno que están libres de árboles, edificios y de otras estructuras, con excepción de los marcadores de líneas de tuberías. Un derecho de paso puede que no tenga marcadores claramente visibles y puede que solo sean evidentes al ver solo los caminos de terreno libres, con excepción de granjas o tierras de cultivo.

Las oficinas del Secretario del Condado mantienen los registros de las servidumbres, los cuales son información pública. Ocupando espacio en los derechos de paso de las líneas de tubería impiden la habilidad del operador de la línea de tubería de poder reducir los daños por terceras personas, de proveer vigilancia en el derecho de paso y de hacer mantenimiento rutinario e inspecciones requeridas federalmente y estatalmente. Para poder ejecutar estas actividades críticas, el personal de mantenimiento de la línea de tubería necesita poder tener acceso de una manera fácil y segura al derecho de paso de la línea de tubería, y a las áreas a cada lado de la línea de tubería. Para poder conservar la integridad y seguridad en las líneas de tubería, se debe mantener distancia entre los árboles, arbustos, edificios, cercas, estructuras y otros impedimentos y las líneas de tubería.

Antes de cualquier proyecto de excavación cerca de los derechos de paso de Sunoco Pipeline al 877-795-7271.

¿Cómo usted puede ayudar?

Aunque incidentes que implican facilidades de oleoductos son muy raros, el conocimiento de la ubicación de la tubería, el potencial de los peligros, y qué hacer si una fuga ocurre puede ayudar a minimizar el impacto de una emisión de la tubería. La causa principal de incidentes en las tuberías subterráneas es excavaciones sin autorización. Los operadores de las líneas de tuberías son responsables por la seguridad de sus respectivas líneas de tuberías. Para poder conservar la integridad de las líneas de tuberías y de los derechos de paso, es esencial que los vecinos cerca de las facilidades y de las líneas de tuberías protejan contra excavaciones sin autorización y contra actividades destructivas. A continuación listamos lo que usted puede hacer para ayudar:

- **Familiarícese con las líneas de tuberías y las facilidades de líneas de tuberías en el área (señales de marcadores, señales en las cercas de los lugares cercados, etc.).**
- **Cotiba el nombre del operador o compañía, información de contacto y cualquier otra información de la línea de tubería que se encuentran en las señales o marcadores cerca de usted y mantenga esa información cerca de su teléfono.**
- **Esté al tanto de cualquier actividad inusual o sospechosa o de excavaciones no autorizada tomando lugar dentro o cerca del derecho-de-paso de la línea de tuberías o instalación de línea de tuberías; informe cualquiera de estas actividades a los operadores de la línea de tuberías y LLAME AL 911.**

Mapas de Líneas de Tubería de Transmisión

La Oficina Estadounidense del Departamento de Transporte de Seguridad de Líneas de Tubería ha desarrollado el Sistema Nacional de Mapas de Líneas de Tubería ("NPMS" por sus iniciales en inglés) para proporcionar información acerca de los operadores de líneas de tubería y de sus mismas líneas de tuberías. El Sitio web de "NPMS" puede ser buscado en el internet usando el CÓDIGO POSTAL o el nombre del condado y estado, y en el mismo sitio usted puede adquirir un mapa del condado, el cual puede ser imprimido desde cualquier impresora personal. Para obtener una lista de los operadores con líneas de tuberías en su área y su información de cómo contactarlos, visite la página **www.npms.phmsa.dot.gov/.**

Wilmer Baker, Reply Brief Submission
Received September 18, 2019, Page 48 of 173

For more information regarding pipeline safety and an overview of the pipeline industry please visit the following websites:

Pipeline Resources and Information

- 811 - **www.call811.com**
- Pipeline 101 - **www.pipeline101.com**
- Association of Oil Pipe Lines (AOPL) - **www.aopl.org**
- American Petroleum Institute (API) - **www.api.org**
- Common Ground Alliance (CGA) - **www.commongroundalliance.com**

Government/Regulatory Agencies

- Pipeline Hazardous Materials Safety Administration (PHMSA) - **phmsa.dot.gov**
- Department of Transportation (DOT) - **www.dot.gov**

To learn more about Sunoco Pipeline L.P., or to take our survey, visit our website at: **www.sunocologistics.com**

Sunoco Pipeline L.P. operates the Inland and Harbor pipeline systems.

PRODUCTS THAT MAY BE TRANSPORTED IN YOUR AREA

PRODUCT	LEAK TYPE	VAPORS
HIGHLY VOLATILE LIQUIDS [SUCH AS: BUTANE, PROPANE, ETHANE, E/P MIX]. ONLY IN GLOUCESTER COUNTY, NJ: NATURAL GAS	Gas	Initially heavier than air, spread along ground and may travel to source of ignition and flash back. Product is colorless, tasteless and odorless.
HEALTH HAZARDS	May be ignited by heat, sparks, or flames and may form combustible mixture with air. Vapors may cause dizziness or asphyxiation and be toxic if inhaled at high concentrations. Contact with gas or liquefied gas may cause burns, severe injury and/or frostbite.	
HAZARDOUS LIQUIDS [SUCH AS: CRUDE OIL, DIESEL FUEL, JET FUEL, GASOLINE, AND OTHER REFINED PRODUCTS]	Liquid	Initially heavier than air and spread along ground and collect in low or confined areas. Vapors may travel to source of ignition and flash back. Explosion hazards indoors, outdoors or in sewers.
HEALTH HAZARDS	Inhalation or contact with material may irritate or burn skin and eyes. Fire may produce irritating, corrosive and/or toxic gases. Vapors may cause dizziness or suffocation. Runoff from fire control or dilution water may cause pollution.	

LOS PRODUCTOS QUE TRANSPORTAMOS EN SU ÁREA

PRODUCTO	TIPO DE FUGA	VAPORES
LÍQUIDOS ALTAMENTE VOLÁTILES [TALES COMO: BUTANO, PROPANO, ETANO, E/T MIX]. SOLO EN GLOUCESTER COUNTY, NJ: GAS NATURAL	Gas	Inicialmente más pesado que el aire, se propaga en el suelo y puede viajar hasta fuentes de encendido y ocasionar retrocesos de llamas. El producto no tiene color, sabor ni olor
RIESGOS A LA SALUD	Puede incendiarse con calor, chispas o con llamas y puede formar una mezcla inflamable con el aire. Los vapores pueden causar mareos o asfixia si estos son inhalados en concentraciones altas. El contacto con el gas o con el gas licuado puede causar quemaduras, lesiones graves y/o congelación.	
LÍQUIDOS PELIGROSOS [TALES COMO: PETROLEO CRUDO, COMBUSTIBLE DIESEL, COMBUSTIBLE PARA JETS, GASOLINA Y OTROS PRODUCTOS REFINADOS]	Líquido	Inicialmente más pesado que el aire y se propaga en el suelo y se acumula en áreas bajas o confinadas. Los vapores pueden viajar hasta fuentes de encendido y ocasionar retrocesos de llamas. Los peligros de explosión ocurren adentro, afuera o en los alcantarillados.
RIESGOS A LA SALUD	La inhalación o el contacto con el material pueden irritar o quemar la piel y los ojos. El fuego puede producir gases irritantes, corrosivos y/ tóxicos. Los vapores pueden causar mareos o sofocación. La escorrentía que proviene del control del fuego o de las aguas de dilución puede causar contaminación.	

24-Hour Emergency Number: 800-786-7440

Sunoco Logistics
Sunoco Pipeline L.P.

Non-Emergency Number: 877-795-7271
Website: www.sunocologistics.com

F 3 D

BREAKING Nikki Haley resigning as ambassador to United Nations

https://cumberlink.com/news/local/sunoco-a-no-show-in-lower-frankford-as-contamination-complaints/article_9d848001-4d61-5edb-b257-60e0709a7252.html

TOP STORY

Lower Frankford Township

Sunoco a no-show in Lower Frankford as contamination complaints, safety concerns pile up

Zack Hoopes The Sentinel Jul 14, 2018

TRY 1 MONTH FOR 99¢

Vern Leach inspects his property where Sunoco Pipeline LP placed a pipeline in Lower Frankford Township.

Sunoco Pipeline LP officials did not show up as promised to a public meeting Tuesday night with the Lower Frankford Township supervisors, leaving roughly 20 residents of the rural municipality concerned that their safety questions about the Mariner East pipelines would not be addressed.

"They called us about an hour ago and said they won't be coming, so we won't be discussing the pipeline tonight," Supervisor James Burkholder said during the meeting.

The township will attempt to schedule Sunoco officials to attend another meeting, Burkholder said, ideally when the township's attorney is available to discuss the municipality's control over the pipeline process, which is limited.

At Tuesday's meeting, the township also approved an invoice from Brehm-Lebo Engineering for inspections along the pipeline construction routes, a process that will help determine how much the township gets reimbursed for damage to its roads.

"Beyond that, the process is pretty much all in the hands of the DEP [Pennsylvania Department Environmental Protection]," Burkholder said.

The Mariner East 2 pipeline will carry liquefied gas, hydrofracked from shale formations in western Pennsylvania, to the Marcus Hook Industrial Complex near Philadelphia for processing.

Throughout most of Cumberland County, Mariner East 2 is being built alongside Mariner East 1, a line that was installed in 1931 to carry oil, but was recently re-purposed to transport higher-pressure liquefied gases.

Limited information

According to Lower Frankford residents, communications from Sunoco have provided limited safety information about either pipeline, with communications focusing on marketing the economic benefits of the pipeline.

This appears to be a significant departure from previous communications, resident Wilmer Baker said.

Baker provided a safety pamphlet from Sunoco he said he received years earlier when he moved into his property. The pamphlet gives dire warnings about what to do if you suspect a pipeline leak near your home, including not starting your car, or even using a door knocker, for fear of sparks.

"I have a wood stove that runs 24 hours a day," Baker said. "What am I supposed to do if this thing gives out? They're cranking up the pressure on an iron line from the 1930s, but all we get now is the propaganda, no new safety information."

The state's Public Utility Commission and administrative law judge appear to agree with Baker.

In March, the administrative court shut down Mariner East 1 flow after Mariner East 2 construction in Chester County caused massive sinkholes that exposed the original Mariner East 1 line.

The court allowed the pipeline to resume operation on May 3, but shut it down again three weeks later over safety concerns similar to those voiced by Lower Frankford residents on Tuesday night. As of June 14, Sunoco is again allowed to operate the pipeline

In the May 21 shutdown order, Administrative Judge Elizabeth Barnes found that "Sunoco has made deliberate managerial decisions to proceed in what appears to be a rushed manner in an apparent prioritization of profit over the best engineering practices available in our time that might best ensure public safety."

In the past year, Mariner East 1 has experienced three leaks, all of which Sunoco failed to identify and report. In one instance it took Sunoco officials 90 minutes to close off Mariner I after being informed of a leak in Berks County that resulted in a 1,000-gallon spill of liquefied gas, Barnes said.

In reference to Mariner East 1 being strong enough for conversion from low-pressure oil to high-pressure liquefied gas, Barnes found that "there is insufficient evidence to show whether the pipe has been properly tested for repurposing."

1931 line

Sunoco has submitted no reports that would indicate the line, built in 1931, would be able to accommodate high-pressure loads of shale gas liquids, known as highly volatile liquids, according to the shutdown order.

"I question whether the [Mariner I] pipe meets today's engineering standards to hold the HVLs of ethane, butane and methane gases, especially so close to dwellings," Barnes wrote.

She also found that "there is a substantial issue regarding whether Sunoco has adequately created and trained its personnel and first responders of townships along its route regarding proper emergency response and evacuation procedures."

That would seem to be the case in Lower Frankford. Burkholder said the township supervisors have had "no direct report from Sunoco, beyond pamphlets the company gave them to hand out to residents."

The company's June newsletter contains no concrete emergency response information, but it does devote considerable space to complaining about the Mariner East 1 shutdown decision, calling Barnes' ruling "a significant departure from the law and the due

process procedures that the PUC follows."

The newsletter even contains a graphic of sizzling steaks with the tagline "restarting Mariner East 1 will make cookouts more affordable" due to lower energy transport costs.

"They send us all this stuff about energy prices, but they still can't tell the township what we're supposed to do when this thing blows up," Baker said, referencing the explosion of the Columbia Gas Transmission line in West Virginia last month.

"Remember, that line was brand new, not 80 years old," Baker said.

In response to the shutdowns, Sunoco has submitted exhibits to the PUC detailing safety measures. These include safety literature similar to that which Baker had received in the past, and details of training sessions for local emergency responders.

If Lower Frankford officials or residents feel Sunoco isn't actually carrying through on those plans, they can take action through the PUC, PUC spokesman Nils Hagen-Frederiksen said.

"There are state and federal requirements for [Sunoco] to have outreach campaigns and interaction with emergency responders," Hagen-Frederiksen said. "If people don't feel they're getting the necessary information or interaction from Sunoco, we encourage them to raise that issue with the PUC."

Remediation

Other Lower Frankford residents voiced concern with ongoing environmental remediation and access issues.

Vern Leach said that Sunoco had cut his fences to run Mariner East 2 under his farm, and now wants to put in gates so that workers can access the line in the future, even though the company doesn't have right-of-way.

Drilling fluid and mud has leaked to the surface of the wetlands surrounding Locust Creek, which abuts Leach's property, leaving a hardened layer of silt under the marshes, he said.

"They cut our fences, so we can't use it for pasture, and they destroyed the wetlands," Leach said. "It's as hard as a rock just below the surface."

Two incidents involving Locust Creek and its associated wetlands, referred to by the state as Wetlands J35, are cited in the April 27 "consent assessment" between Sunoco and the DEP, which fines Sunoco $355,622 for dozens of instances of "inadvertent return" during the construction of Mariner East 2.

"Inadvertent return" is an industry term for incidents in which underground drilling fluid and mud escape the drilling path and cause contamination, either by entering underground aquifers or soil voids, or by flowing up to the surface.

Locust Creek and Wetland J35 experienced a 500-gallon inadvertent return on Sept. 27, 2017, and another 100-gallon incident on Feb. 27, 2018, according to the consent assessment.

DEP records show 31 incidents of inadvertent return in Cumberland County since April 2017, with problems still ongoing.

The most recent violation was issued this week — July 9 — in which the DEP and county conservation district documented a one-gallon inadvertent return in Wetland I32 along LeTort Spring Run in Middlesex Township.

Many of the inadvertent returns are of small volumes. But one stands out, an incident between May 6, 2017, and May 19, 2017, in which 170,000 gallons of inadvertent return flowed into Wetlands I30 and I32.

One Cumberland County incident was also cited in the DEP's $12.6 million penalty assessment against Sunoco in February.

That incident did not involve inadvertent returns. On Dec. 18, 2017, county officials discovered that Sunoco officials were conducting directional drilling near North Locust Point Road in Silver Spring Township even though Sunoco officials were told to install pipe using open trench cuts and had not obtained permits for horizontal drilling at that site.

But with the sheer volume of violations and fines piling up, local residents have expressed doubt that the state has the tools to force Sunoco to stop acting recklessly, let alone fix the damage.

"They make a big deal out of a $12 million fine, but that's a drop in the bucket for a company like Sunoco," Leach said. "They have no incentive to stop doing what they're doing."

Sunoco did not return requests for comment.

Email Zack at zhoopes@cumberlink.com.

MORE INFORMATION

LOWER FRANKFORD TOWNSHIP
1205 Easy Road
Carlisle, PA 17015
(717) 243-0855
FAX (717) 258-4715
e-mail: lowerfrankford@comcast.net

C 8

December 10, 2018

To Whom it May Concern:

The Board of Supervisors of Lower Frankford Township invited Sunoco Pipeline to its regularly scheduled meeting on Tuesday, July 10, 2018 at 7PM to discuss pipeline safety. Mr. Wilmer Baker and other concerned residents planned to attend the meeting to ask questions about personal safety.

Sunoco Pipeline backed out of the meeting at the last moment.

The very next day Sunoco Pipeline offered to train the Board of Supervisors on pipeline safety. The Board declined this invitation. It is of the opinion of the Board that first responders should be the ones that are trained.

Respectfully,

James W. Burkholder, Jr., Chairman
Board of Supervisors
Lower Frankford Township

E 3 B

McNees

Jonathan D. Andrews
Direct Dial: 717.237.5355
Direct Fax: 717.260.1660
jandrews@mcneeslaw.com

August 6, 2018

VIA E-MAIL

Martson Law Offices
Attn: Atty. Hubert X. Gilroy
10 East High Street
Carlisle, PA 17013

RE: Sunoco Pipeline L.P. Mariner East Project – Federal/State Preemption
Lower Frankford Township, Cumberland County
Our File No. 32935-0007

Dear Atty. Gilroy:

We represent Sunoco Pipeline L.P. ("Sunoco Pipeline") with respect to the Mariner East II pipeline (the "Pipeline") insofar as it traverses Lower Frankford Township, Cumberland County, Pennsylvania (the "Township"). The Pipeline provides transportation services of natural gas liquids ("NGLs") from the Marcellus Shale region in western Pennsylvania, Ohio and West Virginia to Sunoco Pipeline's Marcus Hook facility located along the Delaware River. In addition, the Pipeline provides transportation services of NGLs for shipments beginning and ending within only the Commonwealth. Accordingly, the Pipeline is both an *inter*state pipeline and an *intra*state pipeline. It is our understanding that questions were raised by residents of the Township with respect to the Township's authority to regulate Sunoco Pipeline and the construction, operation and maintenance of the Pipeline. The purpose of this letter is to explain that the Township's authority to regulate Sunoco Pipeline and the Pipeline is expressly preempted by federal and state law.

The construction, operation and maintenance of the Pipeline is regulated under the federal Pipeline Safety Act, 42 U.S.C. § 60101 *et seq.* (the "Act"). The Pennsylvania Public Utility Commission ("PUC") also regulates construction, operation and maintenance of pipelines as it relates to the intrastate service of the Pipeline because Sunoco Pipeline is a certificated public utility corporation providing public utility service under the Public Utility Code, 66 Pa. Cons. Stat. § 101 *et seq.* (the "Code").

Analysis

The authority to regulate Sunoco Pipeline's construction, operation and maintenance of the Pipeline is solely within the purview of the Secretary of Transportation (the "Secretary") of the United States Department of Transportation (administered through the Pipeline and Hazardous Materials Safety Administration (the "PHMSA")) and the PUC. In general, it is the duty of the Secretary and the PUC to ensure Sunoco Pipeline provides adequate protection and safety measures as it constructs, operates and maintains the Pipeline. Further, the Act and the Code expressly preempt the Township from regulating such matters.

1. The Act

The Act sets forth the authority of the Secretary to regulate interstate pipelines. Indeed, the "purpose" of the Act "is to provide adequate protection against risks to life and property posed by pipeline transportation and pipeline facilities by improving the regulatory and enforcement authority of the Secretary of Transportation." 49 U.S.C. § 60102(a)(1). To that end, the Act requires that the Secretary "prescribe minimum safety standards for pipeline transportation and for pipeline facilities" that:

> (A) apply to any or all of the owners or operators of pipeline facilities;
>
> (B) may apply to the design, installation, inspection[1], emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities; and
>
> (C) shall include a requirement that all individuals who operate and maintain pipeline facilities shall be qualified to operate and maintain the pipeline facilities.

49 U.S.C. § 60102(a)(2). In that regard, the Secretary is required under the Act to regulate the Pipeline because the Pipeline is a "hazardous liquid pipeline facility," as defined by the Act, in that it is a "pipeline, . . . facility, . . . or equipment used or intended to be used in transporting hazardous liquid." 49 U.S.C. §§ 60101(a)(5), 60102(b)(2)(B)(i). "Hazardous liquid" means "petroleum or a petroleum product," among other liquids, which include NGLs. 49 U.S.C. § 60101(a)(4).

[1] The PUC is authorized by the PHMSA, pursuant to Section 60117(c) of the Act, to conduct inspections on behalf of the PHMSA; although, enforcement under the Act is reserved to the PHMSA. In addition, the PUC is authorized under Section 60105(a) of the Act to adopt its own regulations to the extent such regulations are "compatible with the minimum standards prescribed" by the PHMSA.

In addition, the Act includes an express preemption provision: "A State authority may not adopt or continue in force safety standards for interstate pipeline facilities or interstate pipeline transportation." 49 U.S.C. § 60104(c). There is no question the preemption provision of the Act covers the Pipeline because the Pipeline and Sunoco Pipeline's operations are consistent with the definitions of "pipeline transportation" and "pipeline facilities." Under the Act, a "pipeline facility" includes a "hazardous liquid pipeline facility" and "pipeline transportation" means "transporting gas and transporting hazardous liquid." 49 U.S.C. § 60101. Thus, the Act preempts the Township's authority to regulate safety matters covered by the Act.

The courts agree, including with respect to municipal safety regulations. In Olympic Pipe Line Co. v. City of Seattle, 316 F. Supp. 2d 900 (W.D. Wash. 2004), the District Court evaluated whether the Act preempted the City of Seattle's efforts to regulate safety and operational matters of a pipeline. In analyzing the Act, the District Court held Seattle's "safety regulations" were preempted by Section 60104(c) of the Act. Id. at 902. The District Court also noted the problematic results that would occur if each jurisdiction along a pipeline project could adopt and enforce its own set of standards for pipeline safety and construction. Id. at 905; *see also* Pa. PUC v. Gilbert, 40 A.3d 755, 759 fn. 6 (Pa. Commw. Ct. 2012) (explaining the Act and its purpose).

Safety standards provided by the Secretary and PHMSA are available here: https://primis.phmsa.dot.gov/comm/SafetyStandards.htm.

2. The Code

Sunoco Pipeline is a certificated public utility corporation providing public utility service with the Mariner East project in Pennsylvania and, therefore, is regulated by the PUC. *See* Clean Air Council v. Sunoco Pipeline L.P., 185 A.3d 478, 2018 Pa. Commw. LEXIS 145, *6 (Pa. Commw. Ct. 2018), *citing* In re Condemnation by Sunoco Pipeline L.P., 143 A.3d 1000, 1020 (Pa. Commw. Ct. 2016) (en banc). The Commonwealth Court has stated: "We further conclude that Sunoco is regulated as a public utility by the PUC and is a public utility corporation, and Mariner East intrastate service is a public utility service rendered by Sunoco...." Id.[2] Further, the Court reminded objecting plaintiffs that Sunoco Pipeline "possesses the requisite approvals from the PUC to construct ME2 to provide intrastate service." Id.

Public utility corporations in Pennsylvania are regulated by the PUC. 66 Pa. C.S. § 1501. The PUC is responsible for ensuring that every public utility corporation furnishes and maintains "adequate, efficient, safe, and reasonable service and facilities." Id. Further, the PUC is responsible for ensuring that all public utility corporations "make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as

[2] The Court noted that since 2016, Sunoco Pipeline's status as a public utility corporation had been challenged in the courts at least six times. Id. And in each case, the same outcome was reached – judicial affirmation that Sunoco Pipeline is a public utility corporation. Id.

shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public." Id. Indeed, the PUC may "[p]rescribe as to service and facilities, including the crossing of facilities, just and reasonable standards, classifications, regulations and practices to be furnished, imposed, observed and followed by any or all public utilities." Id. § 1504

The policy behind this law is that subjecting public utilities to a multitude of jurisdictions would result in "twisted and knotted" public utilities with consequent harm to the general welfare. *See* County of Chester v. Phila. Elec. Co., 218 A.2d 331 (Pa. 1966). The Pennsylvania Supreme Court, in Duquesne Light Company v. Upper St. Clair Township, 105 A.2d 287, 290 (Pa. 1954), further explained the reasoning behind the exemption for public utilities:

> *Local authorities not only are ill-equipped to comprehend the needs of the public beyond their jurisdiction, but, and equally important, those authorities, if they had the power to regulate, necessarily would exercise that power with an eye toward the local situation and not with the best interests of the public at large as the point of reference. . . . If the power of the municipality were held paramount, the [Public Utility] Commission could not compel the utility to provide adequate service or in anywise control the expansion or extension of the utility's facilities if an order of the [Public Utility] Commission conflicted with action taken by any political subdivision of the State.*

Id. at 293. *See also* Del. Riverkeeper Network v. Sunoco Pipeline L.P., 179 A.3d 670, 677 (Pa. Commw. Ct. 2018) (citing Duquesne Light and other cases for the same proposition).

Furthermore, it is without question the PUC has initial jurisdiction for all matters "involving . . . service, rules of service, extension and expansion, hazard to public safety due to use of utility facilities, location of utility facilities, [and] installation of utility facilities . . . by a public utility corporation." Id. at 691, *citing* Cnty. Of Chester v. Philadelphia Electric Co., 218 A.2d 331 (Pa. 1966). The PUC has established "the machinery which standardizes the construction, operation and services of public utilities throughout Pennsylvania." Id. Moreover, the Court stated the "General Assembly intended the PUC to occupy the field of public utility regulation, in the absence of an express grant of authority to the contrary." Id. at 692.

Recently, the City of Lancaster attempted to regulate two public utility corporations, in part, in the name of safety under its police power. In both cases, the Commonwealth Court held the City's regulations were preempted by the Code. In PPL Elec. Utils. Corp. v. City of Lancaster, 125 A.3d 837 (Pa. Commw. Ct. 2015), the Court held three of the City of Lancaster's regulations were preempted by the Code. Id. Specifically, the City's regulations purported to authorize the City "to conduct inspections to ensure that utility facilities within the rights-of-way do not constitute a public safety hazard and remain in compliance with PUC standards." Id. at 841. In addition, the regulations permitted the City to require the removal or relocation of such public utility facilities and for the City to impose an annual maintenance fee. In a companion case, UGI Utils., Inc. v.

City of Lancaster, 125 A.3d 858 (Pa. Commw. Ct. 2015), the Court enjoined the City from enforcing City regulations requiring that public utilities submit additional maps and engineering specifications for the location of existing facilities within the City's rights-of-way. Id. In both instances, the Court cited the Code and the case law discussed above in determining that the City's attempt to regulate the public utilities was preempted by the Code. Any Township attempt to regulate the construction, operation and maintenance of the Pipeline is preempted as well.

3. Additional Limits on Municipal Authority

As a public utility corporation regulated by the PUC, the Pipeline is not subject to the Township's Zoning Ordinance or Subdivision and Land Development Ordinance (to the extent such ordinances exist and otherwise would apply), nor must Sunoco Pipeline obtain a building permit for the Pipeline. Under Pennsylvania common law, municipalities have no authority to regulate the design, location, or construction of public utility facilities. *See* Duquesne Light Co. v. Monroeville Boro., 298 A.2d 252, 256 (Pa. 1972) (zoning); Newtown Township v. Philadelphia Electric Company, 594 A.2d 834, 835 (Pa. Commw. Ct. 1991) (subdivision and land development). Further, Pennsylvania courts also have held that a municipality may not require a building permit for public utility facilities. Commonwealth v. Delaware & H.R. Co., 339 A.2d 155, 157 (Pa. Commw. Ct. 1975).

Recently, there have been two attempts by opponents of the Pipeline to compel Sunoco Pipeline to comply with municipal permitting requirements and regulations. In both instances, Pennsylvania courts dismissed the attempts and cited the legal authority outlined above. *See* Delaware Riverkeeper Network, 179 A.3d at 699; Flynn v. Sunoco Pipeline L.P., Docket No. 17-004148 (CCP Delaware County, June 26, 2017). The courts recognized that Sunoco Pipeline is under the exclusive jurisdiction of the PUC.

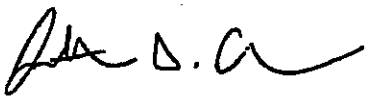
Conclusion

Because Sunoco Pipeline provides both interstate and intrastate service and is a public utility providing public utility service within the Commonwealth, the Township has no authority to regulate the construction, maintenance or operation of the Pipeline. Sunoco Pipeline will continue to comply with all applicable safety and construction protocols and regulations required and enforced by the PHMSA and the PUC.

If you have any questions or concerns, please do not hesitate to call.

Sincerely,

McNEES WALLACE & NURICK LLC

By 
Jonathan D. Andrews

Enclosures
c: Curtis Stambaugh, Esq.

https://cumberlink.com/news/local/cumberland-county-commissioners-push-for-meeting-with-sunoco/article_05622556-ec4f-57da-8fda-4567f210a9c9.html

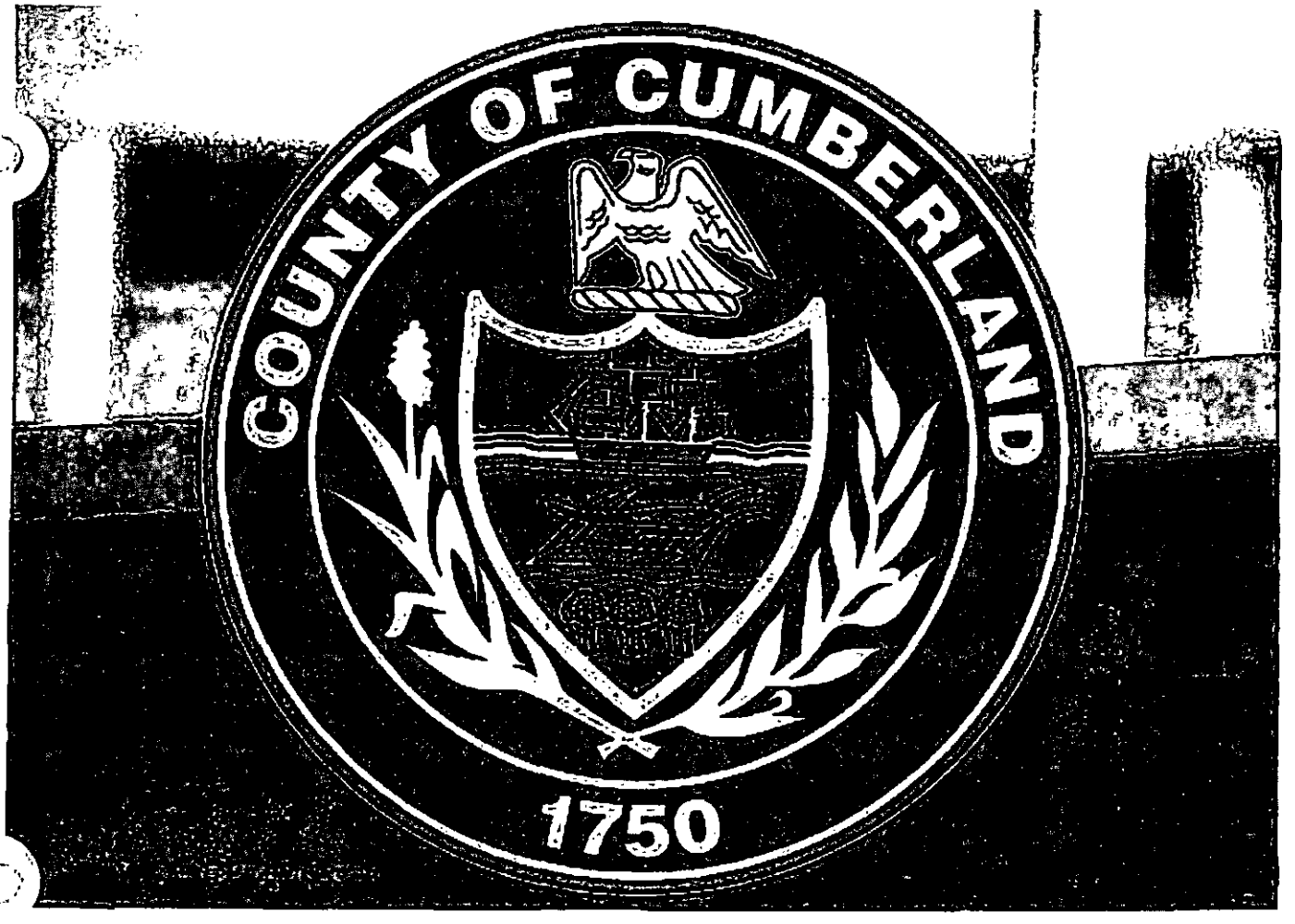
FEATURED

Cumberland County

Cumberland County Commissioners push for meeting with Sunoco

Zack Hoopes The Sentinel Aug 15, 2018

TRY 1 MONTH FOR 99¢



The Cumberland County Commissioners are throwing their weight into an effort to get Sunoco officials to hold a public meeting in the county regarding the Mariner East pipeline projects, following the abrupt cancellation of an appearance in Lower Frankford Township last month.

The county commissioners sent a letter on Monday to Sunoco, formally requesting a session.

"We were disappointed to learn that your company recently cancelled, apparently at the last minute, its expected attendance at a July 10 meeting of the Lower Frankford Township Board of Supervisors that was intended to address questions and safety concerns posed by Lower Frankford Township residents," the commissioners wrote.

"In light of that unfortunate occurrence, we hope you and Sunoco LP officials will now accept our invitation to attend a meeting hosted by the county to address citizen concerns," the commissioners continued.

The county's request comes after Sunoco bowed out of a July 10 township supervisors meeting in Lower Frankford, apparently notifying the supervisors only an hour before the meeting that company representatives did not plan to show up.

Residents had gathered to voice their concerns regarding the Mariner East pipelines, which run through Lower Frankford as well as several other municipalities in Cumberland County.

Sunoco a no-show in Lower Frankford as contamination complaints, safety concerns pile up

Energy Transfer Partners — the company under whose banner Sunoco Logistics is operating — is constructing the Mariner East 2 pipeline roughly along the same route as the existing Mariner East 1, which was completed in 1931. The lines carry liquefied gases, hydrofracked from shale formations in Western Pennsylvania, to the Marcus Hook Industrial Complex near Philadelphia for processing.

Several Lower Frankford landowners have been vocal in their concerns over the environmental impact of Mariner East 2 construction, as well as safety issues regarding Mariner East 1.

As documented by The Sentinel last month, escaped drilling fluid and debris have turned wetlands and pasture "hard as a rock" with silt and shale fragments, according to Lower Frankford farmer Vern Leach.

This is the effect of frequent "inadvertent returns," an industry term for incidents in which underground drilling fluid and mud escape the drilling path and cause contamination, either by entering underground aquifers or soil voids, or by flowing up to the surface.

Records from the Pennsylvania Department of Environmental Protection show 33 incidents of inadvertent return in Cumberland County having occurred since April 2017 in conjunction with Sunoco's Mariner East 2 construction.

Problems are still occurring as recently as two weeks ago, with a 5- to 10-gallon release of drilling fluids in Middlesex Township listed by the DEP on Aug. 3.

Middlesex has also seen one of the largest inadvertent returns in the state, according to DEP records – a leak of 170,000 gallons of drilling fluid into Wetlands I30 and I32 along LeTort Spring Run between May 6 and May 19, 2017.

Residents have also voiced concerns over the re-purposing of Mariner East 1.

Originally built to carry oil, Mariner East 1 has been converted to carry shale gas liquids at much higher pressure. The line was shut down for two periods of time earlier this year after complaints were lobbied through the Pennsylvania Public Utility Commission.

In those cases, the administrative law judge found that Sunoco had provided insufficient evidence that the 1931 line could handle high-pressure liquefied gases. Three leaks along Mariner East 1's length had occurred in the past year, the judge found, with

Cumberland County Commissioner

F.Y.I.

Jim Hertzler
Commissioner
One Courthouse Square
Carlisle, PA 17013

Office (717) 240-6150 jhertzler@ccpa.net
Mobile (717) 991-7985 www.ccpa.net

COMMISSIONERS OF CUMBERLAND COUNTY

Vincent T. DiFilippo
Chairman

Jim Hertzler
Vice Chairman

Gary Eichelberger
Secretary

August 13, 2018

Mr. Matt Ramsey, Chairman of the Board
Sunoco LP
8111 Westchester Drive
Dallas, Texas 75225

Dear Mr. Ramsey:

As the Mariner pipeline project nears completion across our county, and our state, we are writing on behalf of the approximate 250,000 citizens of Cumberland County, Pennsylvania, and, more specifically, on behalf of the residents of Lower Frankford Township, one of our County's more rural municipalities, to respectfully request your company's participation in a county-hosted meeting to address citizen questions and concerns about the pipeline.

While we recognize the enormous economic benefit of Pennsylvania's Marcellus Shale natural gas reserve to our state, and Sunoco LP's significant financial investment in its pipeline project to bring this resource to market, we certainly want to believe that your company places environmental protection and public safety as top priorities in conjunction with the development and use of this valuable energy resource.

We were disappointed to learn that your company recently cancelled, apparently at the last minute, its expected attendance at a July 10 meeting of the Lower Frankford Township Board of Supervisors that was intended to address questions and safety concerns posed by Lower Frankford Township residents.

In light of that unfortunate occurrence, we hope you and Sunoco LP officials will now accept our invitation to attend a meeting hosted by the county to address citizen concerns.

We thank you for your timely consideration of this request. Please respond to Mr. Kirk Stoner, our County's Director of Planning, to arrange a mutually convenient date and time. Mr. Stoner can be reached at 717-240-5362. His email is kstoner@ccpa.net.

Sincerely,

CUMBERLAND COUNTY BOARD OF COMMISSIONERS

Vincent T. DiFilippo
Chairman

Jim Hertzler
Vice-Chairman

Gary Eichelberger
Secretary

cc: Honorable Jim Burkholder, Chairman
Lower Frankford Township Board of Supervisors

One Courthouse Square • Room 200 • Carlisle, PA 17013 • 717.240.6150 • Fax: 717.240.6448
E-mail: commissioners@ccpa.net • Web: www.ccpa.net

COMMISSIONERS OF CUMBERLAND COUNTY

Vincent T. DiFilippo
Chairman

Jim Hertzler
Vice Chairman

Gary Eichelberger
Secretary

September 13, 2018

Attn: Mr. Matthew Gordon,
Senior Director, Pipeline Operations
Sunoco Pipeline (Energy Transfer Partner)
525 Fritztown Road
Reading, PA 19608

Dear Mr. Gordon:

Thank you for your August 24 letter of response to our communication to Sunoco LP Chairman Matt Ramsey earlier last month.

While we appreciate the efforts Sunoco Pipeline has undertaken to provide training to first responders in the event of an accident or emergency associated with your company's pipeline operations, we find it inexplicable that you did not respond to the primary request of our letter.

We will assume that since you did not respond to our request to attend a county-hosted meeting to answer individual questions and concerns from our constituents about pipeline safety that your company isn't interested in addressing those individual citizen questions and concerns.

At a time when your company is spending money on television and radio advertising to convince the public, as your letter states, that "safety is (your) top priority at all times," we find it difficult to understand why company representatives would not want to participate in any such meetings that can be arranged with the public at large to detail all of the safety precautions that the company has taken to prevent leaks, explosions and other emergencies from occurring in the first place.

If you are sincerely interested in convincing the public that your pipeline operations are as safe as safe can be, then we would respectfully request, as the good corporate neighbor that we would expect you to be, that you reconsider and agree to attend a public meeting hosted by the county for the purpose of granting the company the opportunity to detail safety measures and to permit citizens to ask questions and voice any concerns.

Thank you again for your attention to this request.

CUMBERLAND COUNTY BOARD OF COMMISSIONERS

Vincent T. DiFilippo
Chairman

Jim Hertzler
Vice-Chairman

Gary Eichelberger
Secretary

cc: Honorable Gladys Brown, Chairman
Pennsylvania Public Utility Commission
State Senators:
Honorable Richard L. Alloway
Honorable John H. Eichelberger
Honorable Mike Regan
Honorable Jim Burkholder, Chairman
Lower Frankford Township

State Representatives:
Honorable Stephen Bloom
Honorable Sheryl M. Delozier
Honorable Dawn W. Keefer
Honorable Mark K. Keller
Honorable Will Tallman
Honorable Greg Rothman

COMMISSIONERS OF CUMBERLAND COUNTY

Vincent T. DiFilippo
Chairman

Jim Hertzler
Vice Chairman

Gary Eichelberger
Secretary

October 8, 2018

Honorable Gladys M. Brown, Chairman
Pennsylvania Public Utility Commission
Commonwealth Keystone Bldg.
400 N. Street, 3rd Fl., Room N-304
Harrisburg, PA 17120

Dear Chairman Brown:

As you are aware, a number of our county's citizens have raised safety questions and concerns with respect to Sunoco Pipeline's Mariner East project that crosses through nearly a dozen municipalities in Cumberland County.

In an effort to have the company address those questions and concerns, the Board of Supervisors of one of our townships, Lower Frankford Township, had scheduled a July 10 meeting with Sunoco Pipeline representatives only to have the company cancel at the last minute. Subsequently, we invited the company, in letters dated August 24 and September 13, to attend a county-hosted meeting so that any of our county's citizens who live in close proximity to the pipeline could have their questions and concerns addressed. Unfortunately, we have yet to receive a direct, formal response.

As such, we are respectfully requesting that the Public Utility Commission take whatever policy and/or regulatory action necessary to enhance the minimum federal "public awareness" safety rules, promulgated by the federal Pipeline and Hazardous Materials Safety Administration, to require Sunoco Pipeline, as a regulated Pennsylvania public utility, to conduct regional and periodic public outreach meetings to address any citizen questions and concerns.

We find it inexplicable that a large enterprise like Sunoco Pipeline that touts "safety" as a "top priority at all times," would refuse to send representatives to attend a coordinated county-hosted meeting to detail safety measures taken and advise citizens of any precautions they should take and to address any other questions and concerns.

In addition to other elements of the company's "public awareness" efforts, we believe a requirement for periodic regional outreach meetings directly with the public is a reasonable request. We hope you will agree. Thank you for your attention to this request.

CUMBERLAND COUNTY BOARD OF COMMISSIONERS

Vincent T. DiFilippo
Chairman

Jim Hertzler
Vice-Chairman

Gary Eichelberger
Secretary

cc: All PUC Commissioners
Cumberland County State Legislative Delegation

One Courthouse Square • Room 200 • Carlisle, PA 17013 • 717.240.6150 • Fax: 717.240.6448
E-mail: commissioners@ccpa.net • Web: www.ccpa.net

C-11

E-14

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
400 NORTH STREET, HARRISBURG, PA 17120

IN REPLY PLEASE REFER TO OUR FILE

CHR CORR
2018-0261

NOV 15 '18 PM 2:13

November 8, 2018

Honorable Vincent T. DiFilippo, Chairman
Honorable Jim Hertzler, Vice-Chairman
Honorable Gary Eichelberger, Secretary
Commissioners of Cumberland County
One Courthouse Square, Room 200
Carlisle, Pennsylvania 17013

Re: Mariner East Pipeline Project

Dear Commissioners:

Thank you for your letter to Chairman Gladys Brown of the Pennsylvania Public Utility Commission (PUC or Commission) regarding Sunoco Pipeline L.P.'s (Sunoco) Mariner East Pipeline project located in several municipalities in Cumberland County. You stated that Sunoco had not adequately responded to your invitation to attend a county-hosted meeting. Your letter requests the Commission to take "whatever policy and/or regulatory action necessary to enhance the minimum federal 'public awareness' safety rules ... to require PUC regulated pipelines to hold periodic regional "public outreach meetings to address any citizen questions and concerns."

Sunoco has to comply with the United States Department of Transportation, Pipeline and Hazardous Materials Safety Administration's (PHMSA) public awareness regulation at 49 CFR Section §195.440, which the Commission has adopted through a PUC regulation, 52 Pa.Code Section 59.33. https://www.pacode.com/secure/data/052/chapter59/s59.33.html . Section 195.440 adopts the American Petroleum Institute's Recommended Practice 1162 https://primis.phmsa.dot.gov/comm/publicawareness/PARPI1162.htm (API RP 1162).

The pipeline operator's obligations under 195.440/1162 include, among other requirements, "provisions to educate the public, appropriate government organizations and persons engaged in excavation related activities on ... [p]ossible hazards associated with unintended releases from a hazardous liquid or carbon dioxide pipeline ... [s]teps that should be taken for public safety in the event of a hazardous liquid or carbon dioxide pipeline release..." Section 195.440 further specifies that a public awareness "program must include activities to advise affected municipalities, school districts, businesses and residents of pipeline facility locations." 49 CFR §195.440(e).

API RP 1162 identifies the "affected public" as one of four primary stakeholder audiences towards whom a pipeline operator must direct its public awareness efforts. The other three primary stakeholder audiences are emergency officials, local public officials and excavators. Section 5 of API RP 1162 identifies several methods for a pipeline operator to use for effective public awareness. In particular, and relevant to your concerns, are the discussions in API RP 1162 regarding various types of group meetings as an effective method of providing public awareness. See API RP 1162, Section 5.2 (Personal Contact) and Appendix D (D.2.3-D.2.5).[1] A county-hosted meeting for citizens who live in proximity to the pipeline appears consistent with the group meetings described in API RP 1162.

After discussing these issues with Vice-Chairman Hertzler and subsequently discussing his concerns with counsel for Sunoco, I believe that the cancellation of the July 10 meeting with the Board of Supervisors of Lower Frankford Township, and Sunoco's reluctance to participate in a county-hosted public meeting, was based on Sunoco's expectation that a formal complaint would be filed by a resident of Lower Frankford Township regarding Sunoco's public awareness compliance.

The complaint was filed and is pending before the Commission's Office of Administrative Law Judge at Docket No. C-2018-3004294. Out of an abundance of caution related to the *ex parte* provisions of the Public Utility Code, I am providing a copy of your letter and this response to the Commission's Secretary for docketing at C-2018-3004294.

Sunoco must continue to meet its public awareness obligations while a complaint is pending. However, the existence of the complaint creates legal issues which could affect the methods Sunoco chooses to implement its public awareness efforts. Accordingly, I have strongly suggested to Sunoco that they engage in discussions with your office to find a way to accommodate your request for Sunoco to participate in a county-hosted group meeting while addressing Sunoco's concerns about pending litigation.

The legal and technical staff of the Commission are reviewing the Commission's current regulations governing the transportation of hazardous liquids by pipeline public utilities. Staff intends to make recommendations for the Commission's consideration at a forthcoming public meeting. We appreciate your request that the Commission enhance the PHMSA's public awareness standards by including a requirement for periodic regional outreach meetings and we will consider including it among our recommendations.

[1] Unfortunately, API RP 1162 is online as a view-only file on API's website and I cannot enclose a copy. But it is viewable in full at the link provided above.

Please contact me if you have any questions or need additional information.

Very truly yours,

Robert F. Young
Deputy Chief Counsel

cc: Rosemary Chiavetta, Secretary (for filing at Docket No. C-2018-3004294)

CUMBERLAND COUNTY

Officials seek Sunoco meeting

Commissioners say company never fully responded to request

ZACK HOOPES
The Sentinel

The Cumberland County commissioners are still pressing for a meeting with Sunoco LP officials after receiving a boiler-plate response to the county's last plea for a public meeting.

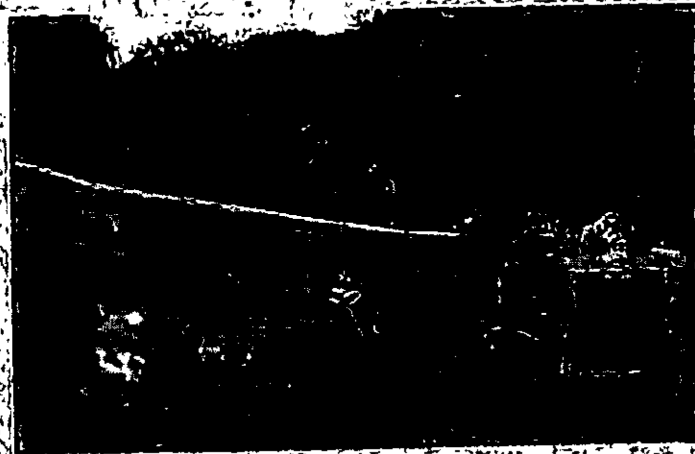
The county sent a letter on Sept. 13 to Sunoco expressing dismay at the pipeline's response to the county's initial request made on Aug. 13.

"We find it inexplicable that you did not respond to the primary request of our letter," the commissioners wrote. "We will assume that since you did not respond to our request to attend a county-hosted meeting to answer individual questions and concerns from our constituents about pipeline safety that your company isn't interested in addressing those individual citizen questions and concerns."

The county asked Sunoco to "reconsider and agree to attend a public meeting."

The county's request came after Sunoco bowed out of a July 10 township supervisors meeting

Please see SUNOCO, Page A2



SENTINEL FILE

Crews work on Sunoco's Mariner East 2 pipeline project in Silver Spring Township in 2017.

Sunoco

From A1

in Lower Frankford Township, apparently notifying the supervisors only an hour before the meeting that company representatives did not plan to show up.

Residents had gathered to voice their concerns regarding the Mariner East pipelines, which run through Lower Frankford, as well as several other municipalities in Cumberland County.

Sunoco's Aug. 24 response to the county's initial letter did not respond to the request for a public meeting one way or the other, but included information about first-responder training provided by Sunoco.

"We found it a little inexplicable that they didn't really respond, they just told us about training opportunities involving first responders," said county commissioner Jim Hertzler.

Hertzler

"We realize we don't have any jurisdiction over this," Hertzler continued, "but good public relations would seem to dictate that sending some representation to a public meeting would just be a matter of being a good corporate citizen."

Energy Transfer Partners — the company under whose banner Sunoco Logistics is operating — is constructing the Mariner East 2 pipeline roughly along the same route as the existing Mariner East 1, which was completed in 1931. The lines carry liquefied gases, hydrofracked from shale formations in western Pennsylvania, to the Marcus Hook Industrial Complex near Philadelphia for processing.

Lower Frankford landowners, along with many others in Cumberland

Sentinel last month, escaped drilling fluid and debris have turned wetlands and pasture "hard as a rock" with silt and shale fragments, according to Lower Frankford farmer Vern Leach.

This is the effect of frequent "inadvertent returns," an industry term for incidents in which underground drilling fluid and mud escape the drilling path and cause contamination, either by entering underground aquifers or soil voids, or by flowing up to the surface.

Records from the Pennsylvania Department of Environmental Protection show 37 incidents of inadvertent return in Cumberland County having occurred since April 2017 in conjunction with Sunoco's Mariner East 2 construction.

The last violation issued by the DEP to Sunoco was just last week, with an inadvertent return of 7 gallons into LeTort Spring Run in Middlesex Township occurring on Sept. 13.

Middlesex has also seen one of the largest inadvertent returns in the state, according to DEP records — a leak of 170,000 gallons of drilling fluid into Wetlands 130 and 132 along LeTort Spring Run between May 6 and May 19, 2017.

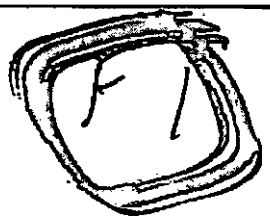
Residents have also voiced concerns over the re-purposing of Mariner East 1.

Originally built to carry oil, Mariner East 1 has been converted to carry shale gas liquids at much higher pressure. The line was shut down for two periods of time earlier this year after complaints were lobbied through the Pennsylvania Public Utility Commission.

In those cases, the administrative law judge found that Sunoco had provided insufficient evidence that the 1931 line could handle high-pressure liquefied gases. Three leaks along Mariner East its length had occurred

Wilmer Baker, Reply Brief Submission
Received September 18, 2019, Page 75 of 173

COMMISSIONERS OF CUMBERLAND COUNTY



Vincent T. DiFilippo
Chairman

Jim Hertzler
Vice Chairman

Gary Eichelberger
Secretary

December 12, 2018

Mr. Wilmer Baker
430 Run Road
Carlisle, PA 17013

Dear Mr. Baker,

Please see the enclosed letters that Commissioner Jim Hertzler spoke to you on the phone about on Wednesday, December 12, 2018, one from PUC and one from the Board of Commissioners.

Thank you.

Sincerely,

Jennifer Crum
Administrative Specialist

enclosures

One Courthouse Square • Room 200 • Carlisle, PA 17013 • 717.240.6150 • Fax: 717.240.6448
E-mail: commissioners@ccpa.net • Web: www.ccpa.net

Wilmer Baker, Reply Brief Submission
Received September 18, 2019, Page 77 of 173

Sen. Andy Dinniman (Pa.19)

Concerns expressed by Pennsylvania citizens fostered theses legislative proposals:

(Bills pending co sponsors) Sen Dinniman:

Hazardous Liquids Pipelines Moratorium Act

Moratorium: Pipelines and Eminent Domain

Pipeline Safety Monitoring and Reporting

Pipeline Pre-Construction Safety Standards Act (Sen. Muth)

Certification of Land Agents (Friel-Otten)

Current bills (Dinniman and Killion) or as noted:

Pipeline Safety Package (Quinn)

Bill 258 –Pipeline Emergency Notification

Bill 257-Regulation of Land Agents

Bill 262– Pipeline Siting and Review

Bill 263-Pipeline Safety Valves

Bill 260– Pipelines Located near schools

Bill 284– Pipeline Safety & Advanced Leak Detection

Sponsors of the SOS People's Rally urge citizens to contact your State Senators and Representatives to support these bills. Vote for those who protect your health and welfare.

Citizens Organizing

Our " SOS Rally" is demanding relief from The clear and present danger of Mariner East –from Marcellus Shale to Marcus Hook

Our State Constitution and Title 35 laws demand that our elected officials protect citizens and our environment for the generations. Our hand out on Title 35 details these deficiencies.

1. Mariner East's history of violations demonstrates that Sunoco is not trustworthy. They have proved to be inept and dishonest.
2. This project causes Irreparable harm to wat air, soil and land.
3. Over 105,000 Pennsylvanians live within the pipelines' blast zone.
4. Mariner East endangers students in more than 40 schools located in the thermal impact zone
5. .The fracked gas in Mariner goes to Europe to produce plastic and therefore contributes to damaging the global environment
6. Mariner East compromises our democratic process when government action, fueled by lobbyist's money, serves corporate interests over the public interest.

Across Pennsylvania

We call on our state officials to serve and protect our lives and property by permanently halting the construction and operations of all Mariner East pipelines. At the very least, a two year moratorium in in order, considering the state wide criminal investigation by our State Attorney General and citizen lawsuits against Sunoco.

A list of Groups that have signed our petition can be found here :

W.facebook.com/Voices-Of-Mariner-East

Our Speakers :

Jerry Mc Mullen—Orientation

Andy Dinniman - Pipeline Safety Caucus

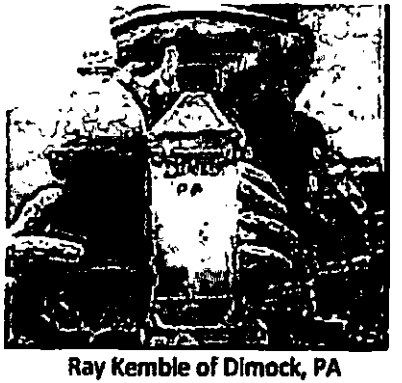
Danielle Friel-Otten– Grassroots political power

Rebecca Britton—Title 35 and PEMA

Wilmer Baker—Pipeline integrity and labor

Ellen Gerhard—Eminent domain

Ginny Kerslake– PUC / Call to action



Ray Kemble of Dimock, PA

SOS

People's Rally

Save Our Students

Save Our Streams

Save Our Land

Save Our Future

Safety Over SUNOCO

The group sponsors of this rally urge a two year moratorium of Mariner East until all health and safety issues have been resolved. Our state has failed the citizens of Pennsylvania in the permitting and oversight of this project.

Citizens demand a clean sustainable energy future.

Our Message :

Citizens Demand Relief

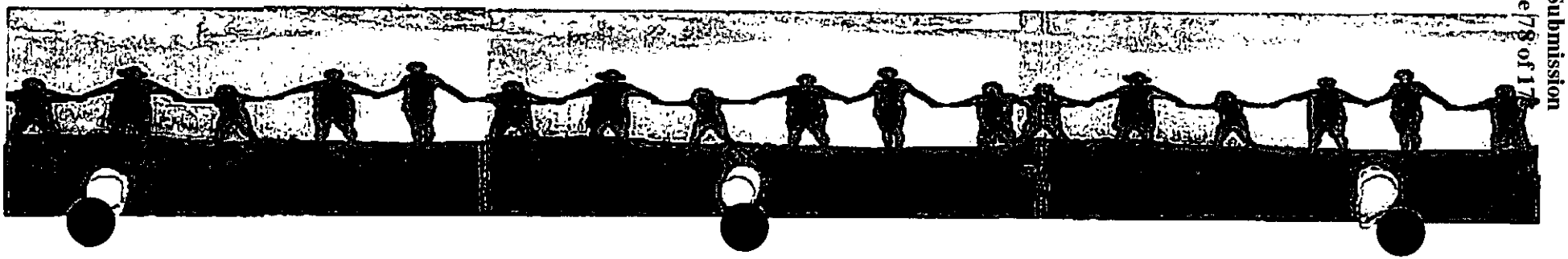
Citizen Groups Across PA

Harrisburg March 19th, 2019

17 Pennsylvania Counties Affected

From Marcellus Shale to Marcus Hook

Protect our Right to a Clean Environment



Wilmer Baker, Reply Brief Submission
Received September 18, 2019, Page 78 of 17

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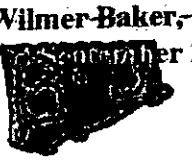
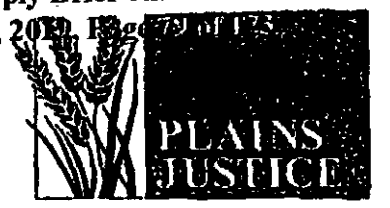




USE OF SUBSTANDARD STEEL BY THE U.S. PIPELINE INDUSTRY 2007 TO 2009

Plains Justice
June 28, 2010

310 North 27th Street
Billings, MT 59102
406-696-8700

100 First Street SW
Cedar Rapids, IA 52404
319-362-2120

100 East Main Street
Vermillion, SD 57069
605-659-0298

Fax: 866-484-2373 info@plainsjustice.org http://plainsjustice.org

Printed on recycled paper

SUMMARY

Between 2007 and 2009 a number of pipe mills produced substandard steel pipe for U.S. pipeline companies. This pipe failed to comply with the American Petroleum Institute Grade 5L X70 standard (API 5L X70 Standard). In response to this discovery of defective pipe, on May 21, 2009, the Pipeline and Hazardous Materials Safety Administration (PHMSA) issued Advisory Bulletin ABD-09-01, entitled "Potential Low and Variable Yield and Tensile Strength and Chemical Composition Properties in High Strength Line Pipe" (Advisory Bulletin). The Advisory Bulletin described the low strength steel pipe issue and recommended an industry response to it in very general terms.

To learn more about this problem, a number of groups submitted a Freedom of Information Act Request to PHMSA on September 2, 2009, which requested documents related to PHMSA's investigation of and response to this problem. In response, in March and May of 2010, PHMSA sent 3,710 pages of information, including test results and reports, emails, letters, presentations, and other documents. This report is intended to summarize the material disclosed by PHMSA, discuss its implications, and identify a number of concerns that may not have been fully addressed by PHMSA and the industry.

The documents provided show that PHMSA investigated a total of seven pipelines, four constructed by Boardwalk Partners, LP (Boardwalk), and three by Kinder Morgan, Inc. (Kinder Morgan). PHMSA confirmed that five of these pipelines contained significant amounts of defective pipe. Specifically, the documents show that the pipe stretched under pressure, creating "expansion anomalies" that indicate use of low-strength steel. To repair their pipelines, the affected companies removed and replaced hundreds of pipe joints.

A number of companies are implicated in producing defective pipe, but it appears that Welspun Corp. Ltd (Welspun), an Indian steel pipe manufacturer, produced most of it. For example, according to released documents, Welspun was responsible for 88% of pipe with expansion anomalies provided to Boardwalk. This being said, other pipe mills also provided defective pipe, some in significant amounts. **Globalization of steel pipe supply chains has made quality control more challenging and increased the need for greater domestic measures to ensure discovery of defective pipe.**

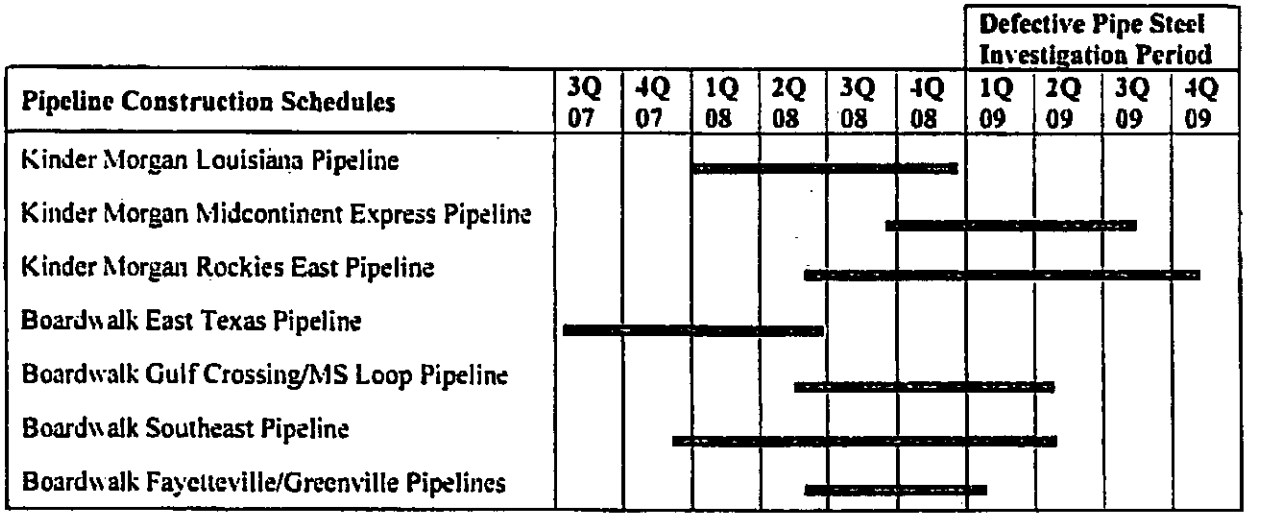
Even though the documents released show that certain pipe mills provided most of the defective pipe, none of the documents describe any systematic approach to defining the scope of this problem or identify the final disposition of pipe provided by these mills during this time period. Thus, it is not clear that PHMSA has tracked down all of the potentially defective pipe joints and confirmed that they have been tested and, where necessary, replaced. Accordingly, this report provides recommended actions, accomplishment of which would assure the public that PHMSA has responded fully to the threat created by low-strength steel.

New natural gas and hazardous liquid pipelines are larger, higher pressure, and more dangerous than earlier generations of pipelines. It is critical that PHMSA fully investigate the root cause of the industry's failure to comply with pipe steel standards so that appropriate solutions are implemented. **It is also critical that large high-pressure pipelines be regulated more stringently than smaller lower pressure pipelines, including measures that increase certainty of the industry's compliance with written standards.**

Public confidence in pipeline safety will be increased only through greater regulatory transparency, increased opportunities for public participation, and a demonstration that PHMSA will respond aggressively to the increasing need to update and improve pipeline safety standards.

INDUSTRY USE OF SUBSTANDARD STEEL PIPE

Between the third quarter of 2007 and the fourth quarter of 2009, Kinder Morgan Inc. and Boardwalk Pipeline Partners, L.P.. constructed a number of new large. high-pressure natural gas pipelines. The approximate construction schedules for these pipelines are shown below.



Upon completion, each of these pipelines was "hydrotested," meaning that each new pipeline was filled with water and pressurized to find out if it had any leaks. Five of these pipelines failed their hydrotests. including the Louisiana Pipeline. the East Texas Pipeline, the Mississippi Loop portion of the Gulf Crossing Pipeline, and the Fayetteville Pipeline. As described below. these tests triggered an investigation by PHMSA, which ultimately determined that these companies had incorporated significant amounts of defective steel pipe into their pipelines.

Kinder Morgan Investigation

PHMSA investigated three Kinder Morgan pipelines:

- Kinder Morgan Louisiana Pipeline (Louisiana Pipeline) – 137 mile 42 inch diameter natural gas pipeline constructed between January 2008 and December 2008;[1]
- Midcontinent Express Pipeline – approximately 500 mile long natural gas pipeline with 40 miles of 30 inch pipe, 197 miles of 36 inch pipe, and 257 miles of 42 inch pipe. constructed between September 2008 and August 2009;[2] and
- Rockies Express Pipeline – East Project (REX East) – a 639 mile 42 inch diameter natural gas pipeline constructed between June 2008 and November 2009.[3]

Investigation of each of these pipelines is discussed below.

[1] Kinder Morgan, Presentation, *Kinder Morgan Louisiana Pipeline (KMLP) – Pipe Issues*, December 15, 2008 (KMLP December 15 Presentation) at 2; *Kinder Morgan 10-K*. February 23, 2009. Given the danger of natural gas leaks and ruptures, initial pressure tests are conducted with water rather than natural gas.
[2] U.S. Dept. of Transportation. *Special Permit for the Midcontinent Express Pipeline*. April 4, 2007: *Kinder Morgan 10-K*, February 23. 2009.
[3] *Kinder Morgan 10-K*, February 23, 2009.

Kinder Morgan Louisiana Pipeline

Sometime in late 2008 the Louisiana Pipeline failed a hydrotest.[4] This failure triggered PHMSA's investigation. Little is known about this hydrotest failure because PHMSA did not release documentation disclosing the location, time, or circumstances of this failure.

In its initial investigation of what caused this failure, Kinder Morgan determined that some of the pipe joints in the Louisiana Pipeline had expanded beyond specification.[5] Expansion was of concern because it indicated that the steel pipe might not have been strong enough to withstand the very high pressures under which this pipeline would operate. Accordingly, Kinder Morgan conducted a high resolution caliper survey of the entire pipeline to identify all expanded substandard pipe joints.[6] PHMSA did not supply the data collected by these high resolution caliper surveys in response to the FOIA Request, nor did it identify the pipe and steel mills that supplied the expanded pipe joints.

Once Kinder Morgan identified specific pipe joints that had expanded, it tested 30 of these joints for chemical composition and strength.[7] It also tested 30 random pipe joints that had not been subject to pressures sufficient to expand them.[8] It found that 43% of the samples from expanded pipe failed to meet strength specifications contained in the API 5L X70 Standard. The data table containing these results describes the pipe as "NPS 42 x 0.864" WT API Grade X70 Welspun LMLP Linepipe."[9] It also found that 13% of the samples from non-expanded Welspun pipe did not meet specification.[10]

Kinder Morgan concluded that "[t]he variability in the pipe yield properties is a result of deviation from plate controlled rolling parameters,"[11] meaning that the steel had been formed improperly. PHMSA provided us with no data or information supporting this conclusion.

To ensure pipeline integrity, Kinder Morgan ultimately removed approximately 7,100 feet (19.7%) of installed pipe due to "diameter variability."[12] Kinder Morgan also requested that Welspun investigate this matter and recertify substandard steel pipe joints based on its records.[13] Welspun recertified an undisclosed number of pipe joints as API 5L X56, X60, and X65 pipe, meaning that it downgraded different segments of pipe from the API 5L X70 Standard to lower standards.[14]

Even though PHMSA did not provide data beyond that contained in generalized Kinder Morgan presentations, it is clear that a substantial number of pipe joints expanded to a degree that caused Kinder Morgan and/or PHMSA to remove and replace these joints. Also, Welspun is the only one of Kinder Morgan's pipe suppliers implicated by the released documents.

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[4] Email, S. Nanney, PHMSA to A. Mayberry, PHMSA, transmitting undated Kinder Morgan presentation on KMLP use of defective steel.
[5] Id. at 5.
[6] Kinder Morgan, *KMLP Presentation*, December 15, 2009, at 8. A high resolution caliper survey is performed by sending a device through the pipeline that measures the diameter of the steel pipe. Such test can determine with precision if and where the pipeline has stretched under the pressure of a hydrotest.
[7] Id. at 5.
[8] Id. at 6
[9] Id. at 11.
[10] Id. at 7.
[11] Id. at 12.
[12] Id. at 5.
[13] Id. at 13.
[14] Id. at 13. The "X" classifications in the API 5L Standard are based on pressure ratings. X70 steel pipe is designed to withstand a pressure of 70,000 psi, X65 steel pipe is designed to withstand 65,000 psi, etc.

Kinder Morgan Midcontinent Express Pipeline

Due apparently to the failure of the Louisiana Pipeline, PHMSA investigated whether or not Kinder Morgan also used substandard pipe in its Midcontinent Express Pipeline.[15] Specifically, it tested 30 samples of steel from API 5L X70 42-inch pipe manufactured by Man Industries in India.[16] Man Industries contracted to supply 257 miles of 42-inch pipe to Midcontinent Express Pipeline, which is the length of the entire 42-inch segment of this pipeline.[17] Kinder Morgan found that all 30 steel samples complied with strength standards.[18] It appears that Kinder Morgan did not test the steel from pipe manufactured for the Midcontinent Express Pipeline by other companies. These companies included Welspun, which provided a majority of the 197 miles of 36-inch pipe.[19] and JSW. IVLA. and Evra OSM Portland, which provided smaller amounts of pipe.[20]

Even though Kinder Morgan ran a "construction type" caliper tool immediately after construction of the Midcontinent Express Pipeline,[21] apparently this tool was not considered adequate to test for pipe expansions, because Kinder Morgan also tested this pipeline with a high resolution caliper tool owned by TDW Magpie.[22] This high resolution tool discovered one 42-inch pipe joint that expanded 2.08%, which was removed and replaced. Kinder Morgan also reported that 1,906 feet of 42-inch pipe joints had expanded between 0.6% and 1.32%, but it deemed these pipe joints to be safe.[23] None of the documents we received indicate that Kinder Morgan tested the 36-inch diameter Welspun pipe with the high resolution tool.

Kinder Morgan's detailed test results for the Midcontinent Express Pipeline have not been disclosed. Further, Kinder Morgan may not have tested the 36-inch Welspun pipe in this pipeline with a high resolution caliper tool. Therefore it is not possible to compare these test results to test results from other pipelines. Nonetheless. it is clear that PHMSA required the removal of at least on defective pipe joint. I also appears that the pipe produced by Man Industries did not suffer a large number of significant expansions because perhaps only a few dozen pipe joints expanded modestly.

Kinder Morgan Rockies Express Pipeline – East Project

PHMSA also investigated whether Kinder Morgan had used substandard steel in the construction of its Rockies Express Pipeline (REX). As it did for other pipelines, PHMSA required that Kinder Morgan test the pipeline with high resolution deformation tool.[24] Kinder Morgan reported inconsistently that one pipe joint had expanded 1.07%[25] but also found that that no pipe joints showed an expansion of greater than 0.79% of pipeline diameter.[26] Otherwise, PHMSA provided no detailed documentation related to investigation of the steel in this pipeline or the source of this steel. However. press reports indicate that Kinder Morgan contracted with Oregon Steel Mills, Inc. to supply all or most of the 42 inch

[15] Email, J. Torres, Kinder Morgan, to J. Mendoza. PHMSA, January 5. 2009; Email, J. Mendoza, Project Manager. PHMSA, to T. Binns, PHMSA, June 3, 2009.
[16] Kinder Morgan Metallurgical Investigation Report NGI-09-01, January 8, 2009.
[17] Business Line, Man Ind. Bags Rs 1,000-cr Order from Midcontinent of US, March 30. 2007.
[18] Kinder Morgan Metallurgical Investigation Report NGI-09-01, January 8. 2009.
[19] Email, J. Mendoza, PHMSA, to J. Torres and K. Kahncke. PHMSA, May 4, 2009.
[20] Id.; Kinder Morgan Metallurgical Investigation Report NGI-09-01. January 8, 2009 at 11.
[21] Email, J. Mendoza, PHMSA, to J. Torres and K. Kahncke, PHMSA, May 4, 2009.
[22] Email, D. Burton, VP Kinder Morgan, to A. Mayberry, PHMSA, October 1, 2009.
[23] Letter. D. Burton, VP Kinder Morgan, to A. Mayberry, PHMSA, August 25, 2009 (Appendix A, Technical Discussion for Pipe Diameters in Excess of 0.6% of Pipe Body Diameter For Midcontinent Express Pipeline at 3-4).
[24] Letter. D. Burton. VP Kinder Morgan, to I. Huntoon. PHMSA, August 27. 2009.
[25] Email, D. Burton, VP Kinder Morgan, to I. Huntoon, PHMSA. August 17, 2009.
[26] Letter. D. Burton, VP Kinder Morgan, to I. Huntoon. PHMSA, August 27. 2009. There may be a reasonable explanation for this inconsistent reporting. but the information received did not provide it.

pipe used in REX.[27] Despite a lack of detailed data, the documents provided do indicate that the steel pipe provided by Oregon Steel Mills showed little expansion.

Kinder Morgan Investigation Summary

Kinder Morgan constructed the Louisiana, Midcontinent Express, and REX pipelines between mid-2008 and the end of 2009. One of these, the Louisiana Pipeline, suffered a rupture during a hydrotest. In response, PHMSA ordered Kinder Morgan to investigate each of these pipelines to determine if they contained substandard steel, and Kinder Morgan used a high resolution caliper tool to test each pipeline for excessive expansion. Kinder Morgan determined that Welspun provided defective steel pipe for construction of this pipeline, and after testing the pipe for strength, removed 7,100 feet of defective pipe joints and left others in place but with down-graded ratings. With regard to the Midcontinent Express and REX pipelines, Kinder Morgan discovered limited expansions in pipe provided by Man Industries and Oregon Steel Mills and ordered the removal of only one pipe joint. It does not appear that PHMSA required Kinder Morgan to inspect the 36-inch Welspun pipe used in the Midcontinent Express Pipeline, such that it is not possible to evaluate the performance of this pipe.

Boardwalk Pipeline Partners Investigation

From 2007 to 2009 Boardwalk Pipeline Partners (Boardwalk) constructed a number of natural gas pipelines in the south central U.S. including:

- East Texas Pipeline – a 238 mile long 42-inch diameter natural gas pipeline constructed between July 2007 and June 2008;
- Gulf Crossing/Mississippi Loop Pipeline – 355 miles of 42-inch diameter natural gas pipeline constructed between June 2008 and February 2009;
- Southeast Pipeline – a 111 mile 42-inch natural gas pipeline constructed between December 2007 and February 2009; and
- Fayetteville/Greenville Pipelines – two 36-inch natural gas lateral pipelines[28] with a combined length of 263 miles constructed between March 2008 and January 2009.

The East Texas, Gulf Crossing, and Southeast pipelines were mostly constructed with 42-inch diameter pipe, although some 36-inch pipe was used in these projects. The Fayetteville/Greenville Pipelines were comprised of 36-inch diameter pipe, although some 20-inch pipe was used as well. All of these pipelines were to be constructed using steel in conformance with the API 5L X70 Standard.

PHMSA's investigation of Boardwalk's use of defective steel appears to have been triggered by a series of failed hydrotests in Boardwalk's pipelines.[29] Three of these failures were caused by defective end welds.[30] The fourth failure, in the Mississippi Loop Pipeline on December 5, 2008, was caused by use of substandard steel in pipe number 07388793.[31] In response to these failed hydrotests, PHMSA

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[27] Press Release, Oregon Steel Mills, Inc., *Oregon Steel Announces Receipt of 510,000 Ton Large Diameter Pipe Order*, March 1, 2006.
[28] The Fayetteville and Greenville Pipelines are in fact separate pipelines, but since much of the Boardwalk data for these pipelines is reported together, this report treats them as one project.
[29] The East Texas Pipeline failed a hydrotest in February 2008, the Southeast Pipeline failed on April 24, 2008, the Mississippi Loop Pipeline failed on December 5, 2008, and the Fayetteville Pipeline failed on March 11, 2009.
[30] Pipelines are constructed by welding joints of pipe end-to-end. Here three of these types of welds failed.
[31] Boardwalk Partners Update, November 6, 2009, Deformation Lab Results for Mississippi Loop Pipeline.

ordered Boardwalk to conduct a high resolution caliper test for each pipeline. similar to the tests performed by Kinder Morgan. This investigation produced surprising results.

First, Boardwalk determined that a mill owned by the Mittal Steel Company in Mexico (Mittal) accidentally substituted three slabs of API 5L X70 steel with three slabs of low grade steel, thereby mistakenly providing steel that did not conform to the API 5L X70 Standard to the JSW pipe mill owned by Jindal Pipes Limited.[32] One of these pipe joints, number 07388793, burst during the Mississippi Loop hydrotest.[33] The other two pipes containing switched slabs expanded but did not burst.[34]

The high resolution caliper testing also determined that an Essar steel mill in India accidentally switched one slab provided to Welspun (pipe number D08132667).[35] This slab ultimately ended up in the Gulf Crossing Pipeline.[36]

The fact that only one switched slab burst when hydrotested suggests that hydrotests alone cannot be relied upon as the only means to discover even grossly substandard steel, and that high resolution caliper testing is also necessary.

Second, the high resolution caliper tests identified 550 expansion "anomalies" in Boardwalk's pipelines.[37] The following chart[38] summarizes the numbers and severity of these expansion anomalies for each Boardwalk pipeline.

Pipeline	Total Miles	% of Total Miles	Expansions /mile	Expansions >2%	Expansions >1%<2%	Expansions 0.25"-1%	Expansions <0.25"	Total Exp's - All Sizes	% of Total Exp's
East Texas	238	25%	0.55	9	48	56	18	131	24%
Gulf Crossing/ MS Loop	355	37%	0.08	2	9	16	3	30	5%
Southeast	111	11%	0.04	0	2	2	0	4	1%
Fayetteville/ Greenville	263	27%	1.46	53	150	173	9	385	70%
Total	967	100%	0.57	64	209	247	30	550	100%

This data shows that the expansion anomalies were not evenly distributed among the pipelines, as would be expected if the cause of the expansions was based on random variability in steel quality. In fact, the East Texas and Fayetteville/Greenville Pipelines together accounted for 94% of the excessive expansion anomalies. Further, a full 70% of the expansion anomalies were in the Fayetteville/Greenville Pipelines even though they accounted for only 27% of total pipeline length.

The number of expansions per mile ranged from a high of about one and one-half expansions per mile in the Fayetteville/Greenville Pipeline, to a low of one expansion every 25 miles in the Southeast

[32] Id.
[33] Id.
[34] Id.
[35] Id. Defonnation Lab Results for Gulf Crossing, Paris to Mira Segment.
[36] Id.
[37] Boardwalk Pipeline Partners Update, November 6, 2009.
[38] Id. Expansion anomaly data provided herein are based on Boardwalk's November 6, 2009, Update, which is the most recent Boardwalk Update provided by PHMSA in response the FOIA request.

Pipeline, making the anomaly rate in the Fayetteville/Greenville lines over 36 times higher than that in the Southeast Pipeline.

Boardwalk also identified the pipe manufacturers and steel mills that provided plate steel to the pipe manufacturers for each of the investigated pipelines,[39] and this information is summarized in the following table. Small amounts of pipe were also provided by Durabond and IPSCO.

Pipe Supplier	Steel Mills Supplying Slab Steel to Pipe Supplier	Total Miles of Pipe Installed	Percent of Pipe Installed
Jindal/JSW (India)	Azovstral (Ukraine) Mittal (Mexico) Essar (India) Jindal (India)	536	55%
Welspun (India)	Essar (India) POSCO (Korea) BAOSTEEL (China) TISCO (China)	363	38%
Camrose (US)	Mittal (Mexico)	68	7%

Jindal and Welspun provided 93% of the pipe for these pipelines. Jindal sourced its steel from the Ukraine, Mexico, and India. Welspun sourced its steel from China, Korea, and India. The only steel mill that provided steel to both Jindal and Welspun was the Essar steel mill.

Boardwalk also identified the pipe manufacturers that provided expanded pipe for each pipeline.[40]

Pipeline	Camrose Total Expansions	Camrose % of Total Expansions	Welspun Total Expansions	Welspun % of Total Expansions	Jindal Total Expansions	Jindal % of Total Expansions
East Texas	0	0%	93	71%	38	29%
Gulf Crossing/ MS Loop	0	0%	7	23%	23	77%
Southeast	0	0%	0	0%	4	100%
Fayetteville/ Greenville	0	0%	385	100%	0	0%
Total	0	0%	485	88%	65	12%

Thus, 88% of the recorded expansion anomalies were in pipe provided by Welspun. Moreover, as shown below, it appears that the Welspun pipe stretched more than the Jindal pipe.[41]

Pipe Supplier	Expansion >2%	Expansion >1% <2%	Expansion 0.25" - 1%	Expansion <0.25"	Total Expansions
Jindal/JSW	2	17	35	11	65
Welspun	62	192	212	19	485

This data shows that 13% of the Welspun anomalies exhibited expansion greater than 2%, whereas only 3% of the Jindal anomalies exhibited expansions of this amount. Further, 40% of the Welspun anomalies

[39] Boardwalk, Summary of Pipe and Slab Coil Sources Used on Boardwalk Expansion Projects, March 2, 2009.
[40] Boardwalk Pipeline Partners Update, November 6, 2009.
[41] Id.

exhibited expansion of between 1% and 2%, whereas only 26% of the Jindal expansions were in this range. This data shows that Welspun pipe varies more in quality than Jindal pipe.

Even though PHMSA did not provide any systematic analysis showing which steel mills provided the steel used in each defective pipe joint,[42] it did provide some test data indicating that Boardwalk and PHMSA focused their testing efforts on steel provided by certain steel mills.[43] The following table summarizes the number of tests performed on expanded pipe joints by pipe manufacturer and steel mill.

Pipe Mill	Tests on Welspun Pipe							Tests on Jindal Pipe				
Steel Mill	Anshan	Baosteel	Essar	Mittal	POSCO	TISCO	Welspun Total	Azovstal	Mittal	Essar	JSW	Jindal Total
Pipelines												
East Texas												
Carthage to Hall Summit								2	2			4
Hall Summit to Vixen								2	4			6
Tullulah to Harrisville	2		69	2			73	1	6			7
Vixen to Tallulah								4	2			6
Gulf Crossing												
Bennington to Paris									1			1
Mira to Sterlington								1	2			3
Paris to Mira									4	1	5	10
Sterlington to Tallulah					1	6	7					
Mississippi Loop								3	3			6
Southeast								2	2	1		5
Fayetteville												
Bald Knob to Lula			23				23					
Grandville to Bald Knob		2	2				4					
Greenville		7	5				12					
Total Tests	2	9	99	2	1	6	119	15	26	2	5	48

For Welspun, 119 pipe joints were tested; for Jindal 48 pipe joints were tested.

[42] It appears that PHMSA and Boardwalk determined that the defective steel could be traced to certain steel mills, because Boardwalk requested a variance from its Special Permit Modification Agreement for Welspun pipe manufactured with POSCO steel since only one pipe joint manufactured with POSCO steel had expanded. Letter. D. Goodwin, VP Boardwalk Pipeline Partners, to A. Mayberry, PHMSA. July 22, 2009.
[43] Boardwalk Pipeline Partners Update, November 6, 2009.

The following table shows Boardwalk tested pipe made with Essar steel almost four times more than pipe made with steel from any other mill.

Steel Mill	# Tests	% of Tests
Anshan	2	1%
Azovstal	15	9%
Baosteel	9	5%
Essar	101	60%
JSW	5	3%
Mittal	28	17%
POSCO	1	1%
TISCO	6	4%
Total	**167**	**100%**

This data shows that PHMSA and Boardwalk focused most of the strength testing on pipe produced by the Welspun-Essar combination.

That there is a correlation between pipe expansions and pipe strength is shown by metallurgical test data for the Fayetteville/Greenville Pipelines provided by Boardwalk to PHMSA on October 7, 2009.[44] This test data shows results for strength tests of 46 Welspun pipe joints, all of which were fabricated using steel from the Essar steel mill.[45] Boardwalk strength tested 28 joints that had expanded more than 1.5%, 10 joints that had expanded approximately 1%, and eight joints that were "control joints" that showed no expansion. Each joint was subjected to nine separate tests.[46] Almost all of the joints that had expanded more than 1.5% failed most of the strength tests.[47] The joints that expanded approximately 1% also failed most of the strength tests.[48] In contrast, six of the eight control joints exceeded strength standards by substantial margins.[49] The two control joints that did not pass all of the strength tests failed in only a few sample runs by narrow margins but generally passed almost all of the strength tests.[50] This data shows a clear correlation between pipe expansions and the use of substandard steel.

Even though it appears that PHMSA could order Boardwalk to trace each expansion anomaly to a specific steel mill, PHMSA did not provide such information in response to the FOIA Request. Further, the absence of a root-cause analysis in the information provided in response to the FOIA Request suggests that PHMSA did not conduct, report on, and/or disclose such analysis. Therefore, based on the documents provided by PHMSA it is not possible to determine the full extent of the low-strength steel problem or trace all possible low-strength steel from particular steel and pipe mills to particular pipelines.

Tracing defective steel back to each steel mill is important because other PHMSA data suggests that one of the causes of the substandard steel was mis-formulation during alloying of the steel. In a September 8, 2009, report by the Microalloyed Steel Institute to PHMSA, the Institute determined that the pipe in the Fayetteville Pipeline (provided by Welspun) and Mississippi Loop Pipeline (provided by Jindal) had improper steel chemistry.[51] The report noted low manganese levels and no vanadium,

[44] Email, D. Goodwin, VP Boardwalk Pipeline Partners, to S. Nanney, PHMSA, October 7, 2009.
[45] Id.
[46] Id. Tests applied included flat strap yield, flat strap tensile, flat strap elongation, round bar yield, round bar tensile, round bar elongation, Charpy toughness, Charpy shear, and grain size tests.
[47] Id.
[48] Id.
[49] Id.
[50] Id.
[51] Letter, J.M. Gray, Microalloyed Steel Institute, to S. Nanney, PHMSA, September 8, 2009.

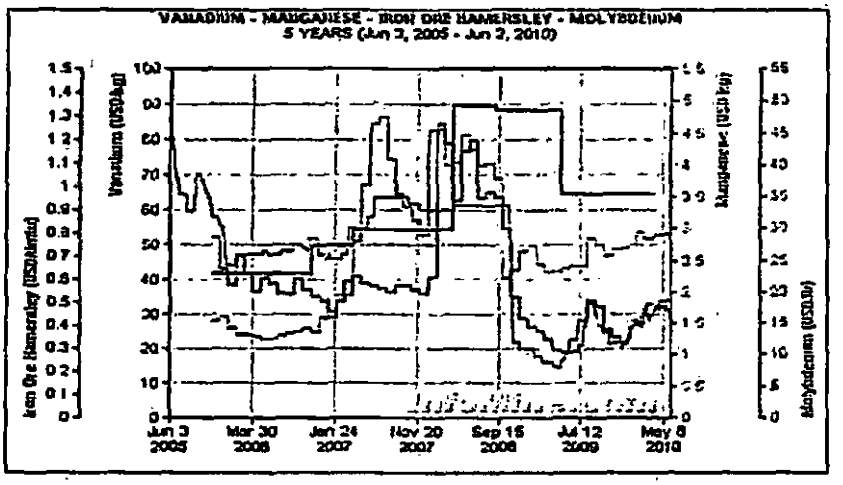
niobium, and molybdenum in steel samples from the Mississippi Loop pipeline, and an absence of vanadium in the Fayetteville Pipeline.[52] The data in Boardwalk's November 6, 2009, Update also indicates that low strength pipe (including the switched slabs) had low levels of vanadium, niobium, and Titanium.[53]

In summary, it appears that 88% of the pipe that expanded was provided to Boardwalk by a single pipe manufacturer, Welspun, even though in terms of length it provided only 38% of the pipe for all the new Boardwalk pipelines combined. Welspun provided a total of 363 miles of pipe that contained 485 expansion anomalies, for a rate of over one anomaly per mile. In contrast, the Jindal pipe had an expansion anomaly rate of about one anomaly every eight miles, and pipe provided by Camrose exhibited no expansion anomalies at all. Also, the expansion anomalies found in the Welspun pipe were markedly worse than the anomalies in the Jindal pipe. Another difference is that Welspun and Jindal sourced their steel from different steel mills, except that they both acquired steel from the Essar steel mill. That Boardwalk and PHMSA focused their attention on pipes made by Welspun-Essar is also indicated by the fact that 60% of all tested pipe joints were made from steel produced by Essar. Further, it appears that mis-formulation of the steel alloy for this pipe may have been a cause of the weakness of some of the Welspun steel pipe.

Ultimately, Boardwalk agreed to remove 305 pipe joints, including all pipe joints in the East Texas, Southeast, Gulf Crossing Pipelines that expanded more than 0.25" (148 pipe joints), and all pipe joints in the Greenville/Fayetteville Pipelines that expanded more than 1.5% (157 pipe joints).

Commodity Prices, Pipe Steel Market Growth and Quality Control

During the period when the defective pipe was fabricated, commodity prices soared, including prices for most metals. The following chart shows that the price for manganese more than tripled in 2007 and the price for iron ore and vanadium more than doubled in 2008.

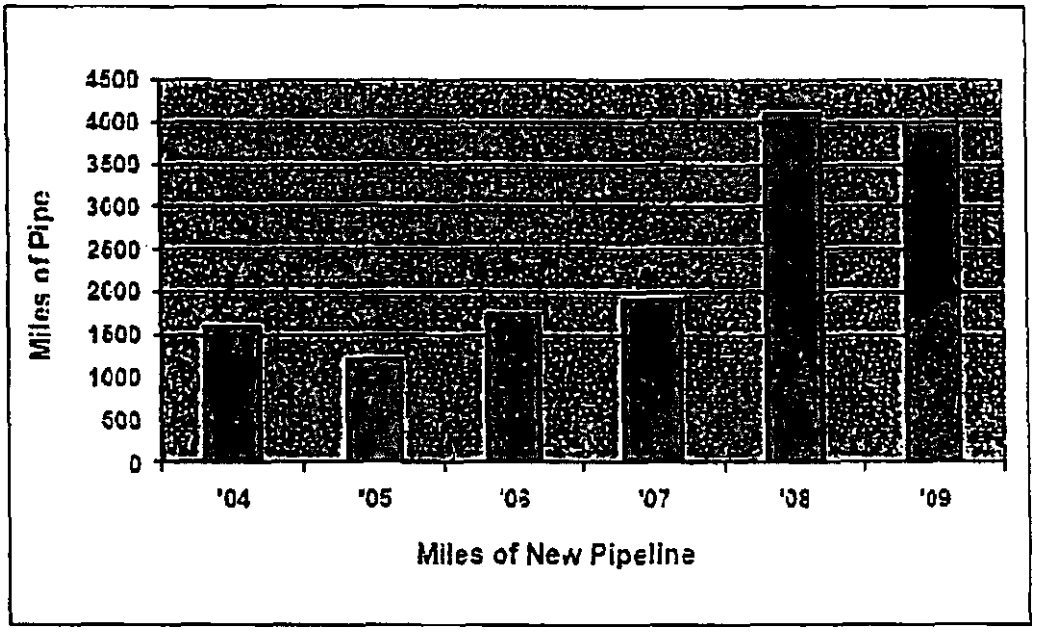


This market evidence indicates that steel mills faced substantially higher prices for raw materials than they likely anticipated. It is reasonable to question whether these dramatic changes in commodity prices shifted steel mill priorities toward meeting production and price goals and away from quality control, including control over the quality of raw materials and steel formulation. However, in the absence of

[52] Id.
[53] Boardwalk Pipeline Partners Update, November 6, 2009.

systematic metallurgical analysis, it is not possible to know with certainty that a pattern of production of mis-alloyed steel existed, and that this was the root cause of the production of substandard pipe by manufacturers.

During this same time period, demand for steel increased dramatically. According to the industry graph below, between 2007 and 2008 the miles of new pipe installed by the industry doubled.[54]



Source: ICF International

This increase in installed miles of pipe is reflected in a corresponding growth in sales of pipe by pipe mills. For example, from 2006 to 2009, Welspun increased its pipe production rapidly, registering nearly 50% increases in sales in fiscal years 2007 and 2008.[55] Its pipe volume production rate increased by 34% in the third quarter of 2008 alone.[56] This rapid growth likely required the retention and training of new employees, pressed steel and pipe mill infrastructure to its limits, and resulted in substantial management pressure on personnel to meet production deadlines. Such production conditions could have adversely impacted quality control.

PHMSA knew about quality control problems at a Jindal pipe mill as early as May 2007.[57] Specifically, PHMSA conducted a visit of a Jindal mill to review quality control problems.[58] PHMSA produced a list of concerns related to pipe rolling and coating, mill hydrotest equipment failures, seam inspection equipment failures, steel plate rejections, pipe end quality, pipe repair quality, pipe tracking, and oil and chloride contamination.[59] Also, in September, 2007, Boardwalk was informed of allegations

[54] Presentation, M. Hereth, INGAA Foundation. *Best Practices in Procurement and Manufacturing Workshop*. June 9, 2010, at 2.
[55] KJMC Institutional Research. *Research Updates, Welspun Gujarat Stahl Rohren Limited*. June 3, 2009 and April 29, 2010.
[56] Hindu Business Line. *Welspun Gujarat Stahl Rohren: Buy*, November 23, 2008.
[57] Email, H. Wang, Boardwalk, to S. Nanney, PHMSA. June 25, 2007.
[58] Id.
[59] Id.

by two former Jindal pipe mill employees that Jindal's production of steel for the East Texas Pipeline could impact the pipeline's integrity.[60] Although PHMSA provided no detail on these allegations, Gulf South, the initial developer of this pipeline, responded to them by conducting:

- a review of current inspection procedures,
- a review of recordkeeping and data storage practices,
- cross-checks on pipe data across multiple independent sources including: Jindal, Gulf South, and third party suppliers for Jindal (double-joint contractors, NDE contractors),
- a physical audit of selected pipe with alleged issues,
- a spot audit of inspection areas in question, and
- immediate implementation of an independent tracking and verification database for pipe procedures beyond the pipe mill to assure an independent check of pipe specification conformance, quality, and disposition through final shipment and receipt at Gulf South's field yards.[61]

Unfortunately, PHMSA provided very limited information about these early reports of pipe mill quality control problems. Nonetheless, the limited information provided indicates that the steel pipe industry was experiencing quality control challenges in 2007.

Summary of Industry Production and Use of Defective Steel Pipe

The information provided by PHMSA in response to the FOIA Request is not as comprehensive as expected. Nonetheless, it indicates that most pipe mills provide limited numbers of joints of substandard pipe, but in 2007 to 2009 the Welspun-Essar mill combination produced an unusually large amount of defective pipe, and that the Jindal-Mittal-Azovstal mill combinations also produced a significant amount of defective pipe.

Even though PHMSA did not provide data tracing the defective pipe steel to specific steel mills, it appears that PHMSA, Kinder Morgan, and Boardwalk may very well have such data. In any case, the data provided by PHMSA shows that the problem here was not caused by random quality variation within the pipe manufacturing industry but rather the vast majority of the substandard steel provided to Boardwalk and Kinder Morgan can be attributed to the Welspun-Essar and Jindal-Mittal-Azovstal mill combinations.

The information provided by PHMSA also identifies that at least three distinct mechanisms are believed to have caused the low-strength steel pipe provided to Boardwalk and Kinder Morgan: (1) improper steel chemistry; (2) improper rolling of steel plate; and (3) a lack of proper segregation of slabs of different grades of steel at steel mills. Other causes are possible. All of the identified mechanisms can result in violations of the API 5L X70 Standard and would impact the quality of large diameter X70 pipe, regardless of the specific size. Also, market conditions during this time period may also have contributed to steel and pipe mill quality control failings.

While the low-strength steel problem was first discovered after investigation of two failed hydrotests caused by low-strength steel pipe, hydrotesting did not identify the full scope of this problem. Only two of hundreds of defective pipe joints burst during the hydrotests. Instead, the scope of this

[60] Emails, W. Bennett and J. Earley, Boardwalk, to S. Nanney et al., PHMSA, September 10-11, 2007.
[61] Id.; Email, J. Garris, Boardwalk, to S. Nanney, PHMSA, September 24, 2007 (further describing Boardwalk's response).

problem was identified only through high resolution caliper testing. Ultimately, PHMSA and the industry concluded that this problem was of sufficient gravity to require the removal and replacement of hundreds of pipe joints.

Unfortunately, it does not appear that PHMSA has yet conducted a comprehensive root-cause analysis of this problem, given that it provided no such analysis in response to the FOIA Request. It also appears that PHMSA may not have conducted a comprehensive study of the possible flow of defective steel pipe from steel and pipe mills noted herein to new natural gas and hazardous liquid pipelines constructed in the U.S. from 2007 to 2009. Instead it appears that PHMSA limited its investigation to only Kinder Morgan and Boardwalk.

INDUSTRY TRADE ASSOCIATION RESPONSE

PHMSA's first formal action related to the defective pipe steel problem was to issue the Advisory Bulletin.[62] In response, the industry convened a meeting on or about June 11, 2009, to which PHMSA was not invited.[63] Apparently, one product of this meeting was a September 2009 White Paper by the Interstate Natural Gas Association of America Foundation (INGAA Foundation) entitled, "Identification of Pipe with Low and Variable Mechanical Properties in High Strength, Low Alloy Steels" (INGAA White Paper). By way of background to this issue, the INGAA White Paper states the following:

> During 2007 and 2008 there was a significant increase in new pipeline construction in the United States. This construction boom put almost unprecedented demands on both pipe and other material manufacturers and pipeline constructors. To meet the demands for high yield line pipe, both traditional and newer pipe mills, utilizing plate and coil from both established and nontraditional steel suppliers, were used. During post-commissioning test (field hydrostatic test) inspection of some of these lines, a small number of pipe joints were detected that had expanded well beyond the dimensional tolerance limits of the pipe manufacturing specification, API Specification 5L. In most cases, the point at which this expansion occurred has not been definitively determined. As the investigation of this phenomenon progressed, it became apparent that it was not limited to one pipe mill, one steel supplier, or one manufacturing process. Through experience of a limited number of operators, it appeared that this issue was a rarity, affecting an extremely small percentage of pipe joints produced. However because the phenomenon could not be isolated or traced to a single source, PHMSA issued [the] Advisory Bulletin.[64]

Thus, due to a boom in pipeline construction, the industry admits that it acquired pipe from "newer," and presumably less experienced pipe mills, and that some pipe mills acquired steel from "nontraditional" steel mills, which could be less familiar with the exacting quality control standards that regulate the construction of pipelines in the United States. It is reasonable to believe that unprecedented demands for high-strength steel pipe and high commodity costs increased the risk of production of substandard pipe in 2007 and 2008.

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[62] PHMSA Advisory Bulletin ABD-09-01, *Potential Low and Variable Yield and Tensile Strength and Chemical Composition Properties in High Strength Line Pipe*, 74 Fed. Reg. 23930, May 21, 2009. PHMSA also conducted a workshop on pipeline construction issues on April 23, 2009, which addressed a variety of pipeline construction failings.

[63] Emails, P. Lidiak, API, to J. Wiese, PHMSA, May 21, 2009.

[64] INGAA White Paper at 1.

Rather than seek or provide greater clarity about the cause and sources of the pipe joints that "expanded well beyond the dimensional limits of the pipe manufacturing specification, API Specification 5L," the industry merely stated that the "point" of expansion (presumably this means time and cause of expansion) had not been "definitively determined." It also stated that the expansions were not limited to one pipe mill, one steel mill, or one manufacturing process, thereby implying that problems linked to only a single supplier should be of concern (which makes no logical sense). It did not support its statements with any data. It also stated that industry operators believe that the quality control problems were a "rarity, affecting an extremely small percentage of pipe joints produced," but failed to reference or provide any data supporting this statement or discuss the risks created by small amounts of defective pipe. After all, it only takes one bad pipe joint to create an environmental and economic disaster. In short, the INGAA White Paper ignored any detailed discussion of the root causes of the substandard pipe and offered only unfounded generalizations about the problem rather than solid explanations.

The industry attempted to justify a limited response to this problem by discussing historical pipeline failures occurring prior to the events that precipitated the Advisory Bulletin.[65] Historical data is not relevant when current evidence suggests new types of industry failings in "unprecedented" market conditions. Historical data does not justify a lack of robust response by PHMSA or the industry to specifically identified problems.

Finally, the INGAA White Paper contains two flow charts intended to guide an operator of an existing pipeline in its determination of whether it has a "potential issue with pipe quality and if so, what actions should be taken to address those issues."[66] Figure 1 indicates that existing pipelines intended to operate at an 80% design factor are subject to the review included in process B1.[67] Figure 2 and its accompanying text describe the B1 process as being:

1) a determination of whether there is a known history of low mechanical properties or excessive expansion found during normal operations;[68]
2) if such history exists, then a company should conduct an in-line inspection (ILI) during its next assessment; and
3) if such investigation shows expansions greater than "X%" amount (X%" is not specifically defined by the INGAA White Paper, which states only that it may be about 1%) then the company must "evaluate and mitigate" the expansions, apparently within one year of the analysis, however the industry has not identified what "evaluate and mitigate" means, when the one-year period tolls, or what actions might be required based on differing degrees of pipe failings.[69]

Thus, it appears that the industry recommends that operators of existing pipelines, including pipelines constructed between 2007 and 2009, conduct an inspection for expansion anomalies only if their "normal" review of pipe data or information discovered during normal operations indicates that a threat of expanded pipes exists. However, the INGAA White Paper makes no recommendations about the type of

[65] INGAA White Paper at 2.
[66] Id. at 3.
[67] Id.
[68] Id. The INGAA White Paper describes this history as, "Regardless of the preceding steps, if the company, through its normal review of the pipe data, such as is conducted during pipe production, and any other operational data or field observations, such as during tie-ins, installing taps, making coating repairs or performing pipe replacements, has made a determination that the threat of expanded pipe exists, then it must look further for such deformation during the next in-line inspection of the pipeline. If there is no evidence of low strength or excessively expanded pipe, no further action is required. Examples of such evidence include coating flaws caused by pipe strain and improper tie-in of a repair due to strain. This step does not contemplate extraordinary evaluations or inspections, but rather relies on those normally conducted as operations and maintenance activities."
[69] Id. at 6-9.

in-line inspection required, and it specifically states, "This step does not contemplate extraordinary evaluations or inspections, but rather relies on those normally conducted as operations and maintenance activities."[70]

The INGAA Foundation's recommendation is essentially to allow operators of pipelines constructed between 2007 and 2009 to determine by and for themselves whether or not they need to conduct high resolution deformation testing and how to redress any problems found. Its response provides no assurance of any systematic investigation of or response to the defective steel problem. Thus, it appears that the industry makes no recommendation that such operators do any initial investigation beyond normal operations and also does not recommend particular responses.

RECOMMENDED PHMSA ACTIONS

Since this report is based only on documents released pursuant to the FOIA Request, it is not possible to fully know about all of the actions taken by PHMSA in response to the defective steel problem. With this caveat in mind, we recommend that PHMSA take the following actions, if it has not already done so:

- Investigate and provide a public report on the use of defective steel in U.S. hazardous liquid and natural gas pipelines that:
  - identifies the number of defective pipe joints discovered;
  - provides a description of each defective pipe joint;
  - provides any test results performed on each pipe joint;
  - indentifies the pipe and steel mill sources for each defective joint;
  - identifies the root cause or causes of the defective pipe joints; and
  - presents recommended improvements in safety regulations, safety enforcement, pipe steel standards, pipeline testing, quality control surveillance, and other appropriate responses to this problem.

- Order all operators of natural gas and hazardous liquids pipelines constructed between 2007 and 2009 to conduct high-resolution in-line deformation caliper testing and provide the results of such inspections to the public on the PHMSA website;

- Order all operators of natural gas and hazardous liquids pipelines constructed between 2007 and 2009 using API 5L X70 and higher grades of pipe to trace pipe from pipe and steel mills with a history of supplying defective API 5L X70 and higher pipe to all U.S. pipelines that contain such pipe, regardless of pipe diameter, and provide a report to PHMSA and the public describing the use of such pipe in U.S. pipelines.

- Post all hydrotest results provided by pipeline operators on the PHMSA website; and

- Reduce the operating pressure of newly conducted hazardous liquid and natural gas pipelines to a design factor of 72% or lower pending completion of PHMSA investigation of possible use of defective pipe steel, any necessary fitness for service determinations, and opportunity for public review and participation in these activities.

All of the foregoing recommendations include easily accessible information disclosures by PHMSA and greater opportunities for public participation in PHMSA activities. Greater transparency in PHMSA operations is necessary to ensure public participation in and support for PHMSA activities. A lack of transparency will result in a lack of trust and risk greater opposition to pipeline development.

[70] Id. at 8.

The growing number of high-pressure, large diameter hazardous liquid and natural gas pipelines are putting increasing numbers of citizens at risk. New large pipelines must be built to the highest ...ndards and be fully tested using the best available technology to ensure that they comply with safety requirements. Existing pipelines, especially large diameter pipelines, must be tested with greater frequency as they age.

To avoid further fatalities, injuries, and property damage, PHMSA must adapt its safety standards, regulations, and enforcement activities to protect citizens and their property from the greater risk posed by new large high-pressure pipelines. To gain greater public trust and public support for its activities, PHMSA must allow citizens to easily learn what it is doing and increase opportunities for citizens to participate in PHMSA's efforts to protect them.

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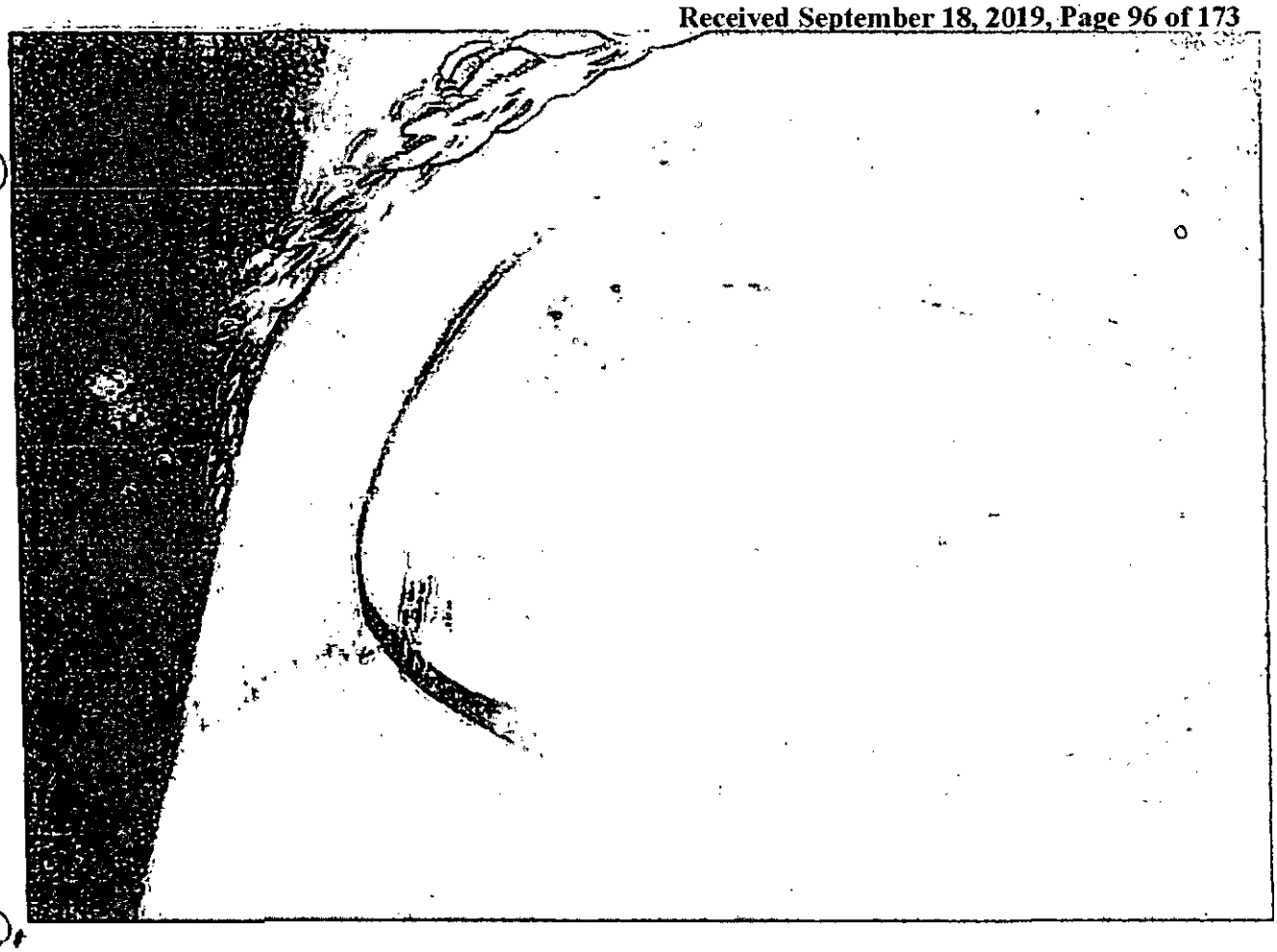

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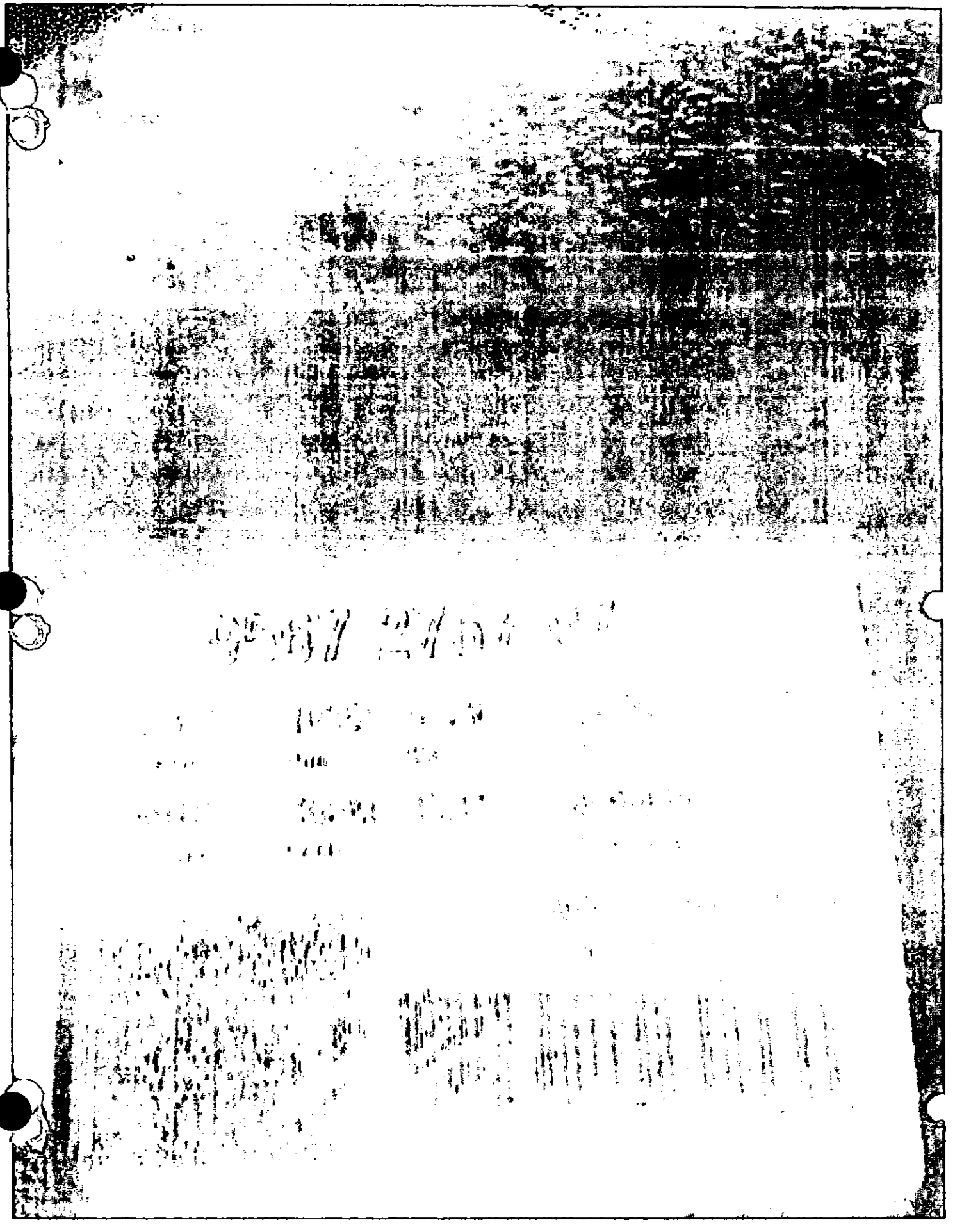

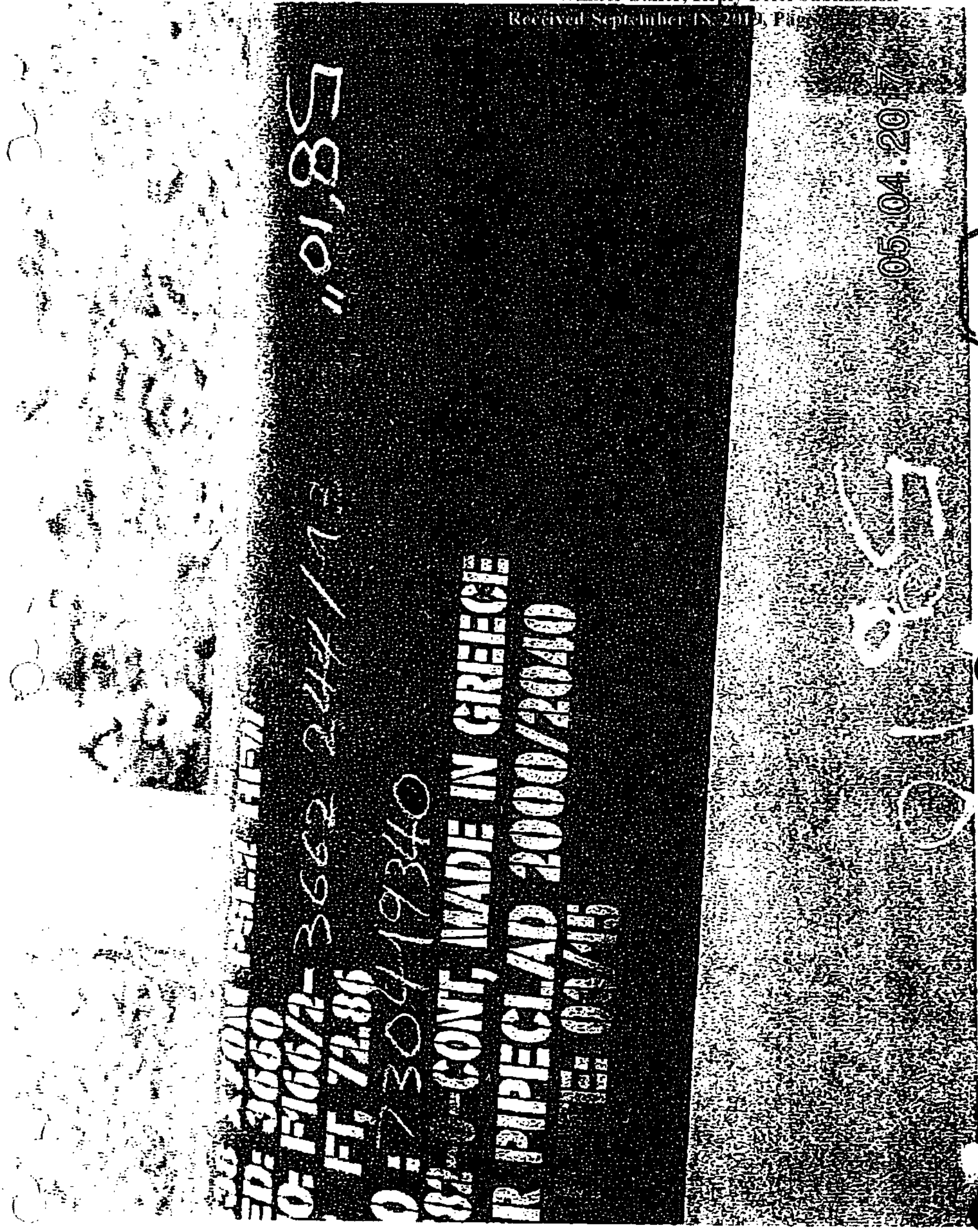
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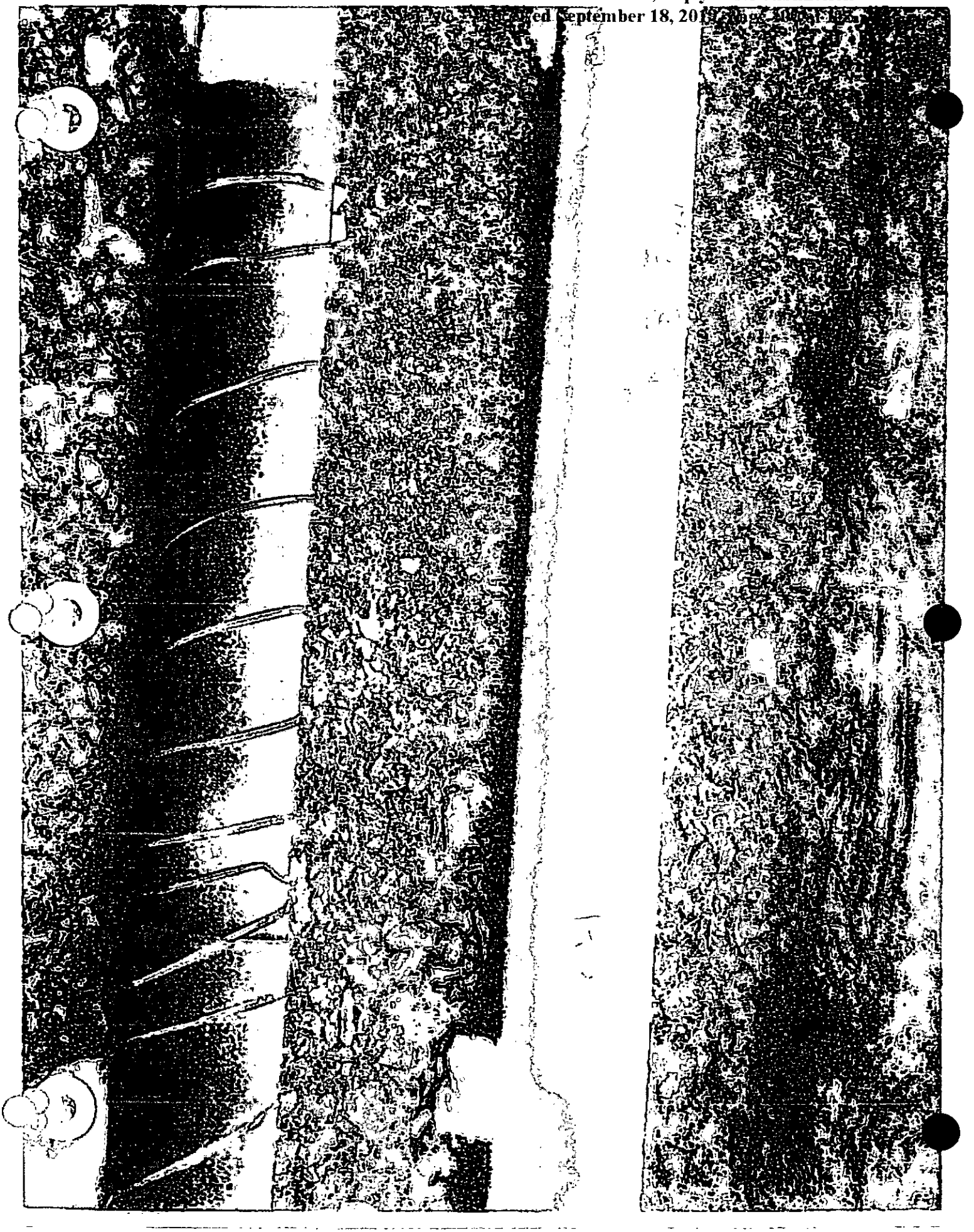

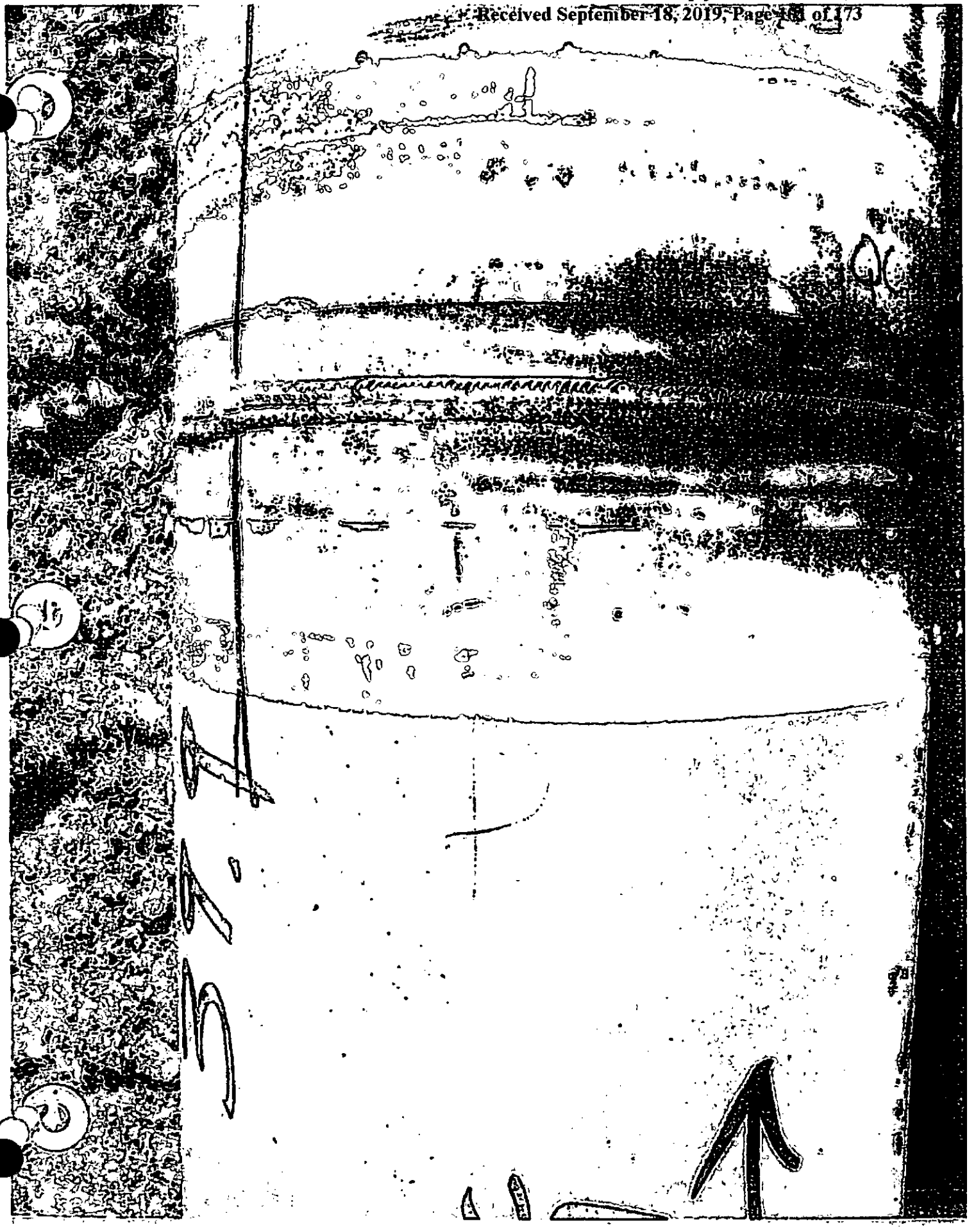

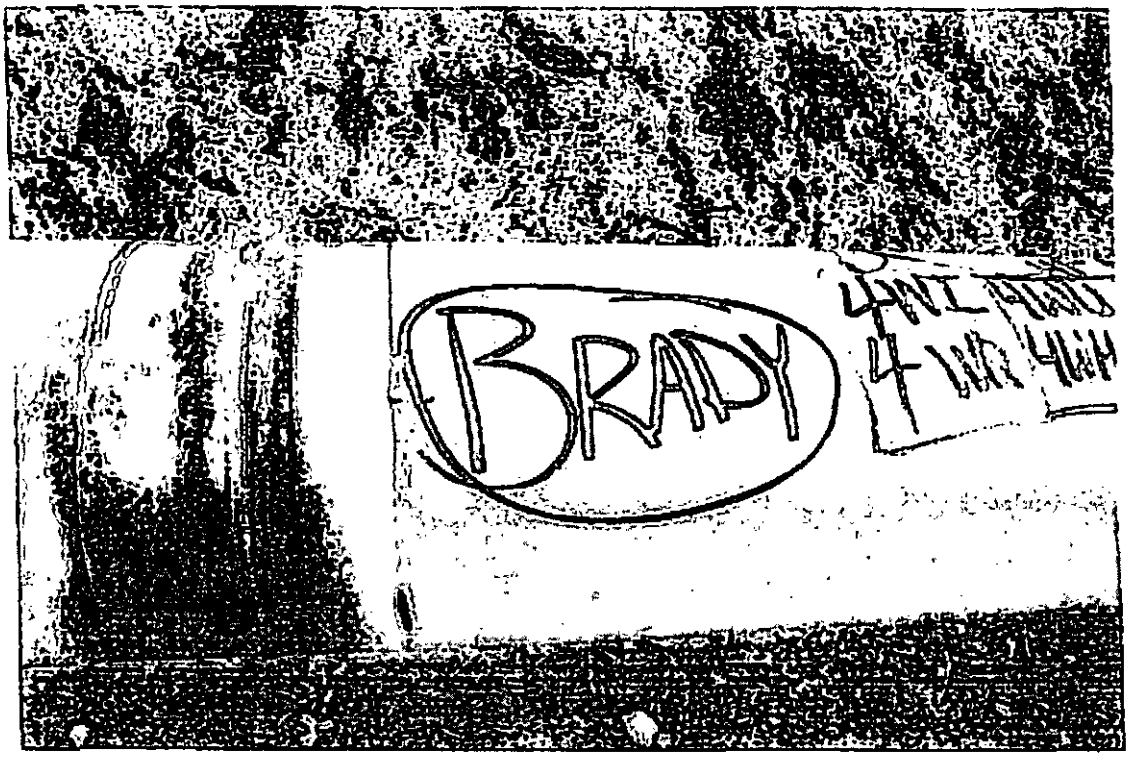

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siness days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of NYSE Arca. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEArca–2010–14 and should be submitted on or before April 8, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–6507 Filed 3–23–10; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35359]

Pacific Rim Railway Company, Inc.—Acquisition and Operation Exemption—City of Keokuk, IA

Pacific Rim Railway Company, Inc. (PRIM), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from the City of Kookuk, IA and to operate approximately 2,894 feet of railroad trackage (.544-mile) consisting of a 2,194 foot-long railroad bridge over the Mississippi River, commonly known as the Keokuk Municipal Bridge, approximately 600 feet of land and track at the approach to the bridge at Hamilton, IL and approximately 100 feet of land and track at the approach to the bridge at Keokuk (collectively, the Bridge). The Bridge connects trackage at Keokuk with trackage at Hamilton.[1]

The transaction is expected to be consummated on or shortly after April 7, 2010 (the effective date of the exemption).

PRIM certifies that its projected annual revenues as a result of the transaction do not exceed those that would qualify it as a Class III rail carrier and further certifies that its projected annual revenue will not exceed $5 million.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than March 31, 2010 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35359, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Thomas F. McFarland, 208 South LaSalle Street, Suite 1890, Chicago, IL 60604.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: March 18, 2010.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Kulunie L. Cannon,

Clearance Clerk.

[FR Doc. 2010–6414 Filed 3–23–10; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Research, Engineering And Development Advisory Committee

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the FAA Research, Engineering and Development (R,E&D) Advisory Committee.

Agency: Federal Aviation Administration.

Action: Notice of Meeting.

Name: Research, Engineering & Development Advisory Committee.

Time and Date: April 21, 2010—9 a.m. to 5 p.m.

Place: Federal Aviation Administration, 800 Independence Avenue, SW–Round Room (10th Floor), Washington, DC 20591.

Purpose: The meeting agenda will include receiving from the Committee guidance for FAA' s research and development investments in the areas of air traffic services, airports, aircraft safety, human factors and environment and energy. Attendance is open to the interested public but seating is limited. Persons wishing to attend the meeting or obtain information should contact Gloria Dunderman at (202) 267–8937 or *gloria.dunderman@faa.gov.* Attendees will have to present picture ID at the security desk and be escorted to the Round Room.

Members of the public may present a written statement to the Committee at any time.

Dated: Issued in Washington, DC on March 17, 2010.

Barry Scott,

Director, Research & Technology Development.

[FR Doc. 2010–6254 Filed 3–23–10; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2010–0078]

Pipeline Safety: Girth Weld Quality Issues Due to Improper Transitioning, Misalignment, and Welding Practices of Large Diameter Line Pipe

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Notice; issuance of advisory bulletin.

SUMMARY: PHMSA is issuing an advisory bulletin to notify owners and operators of recently constructed large diameter natural gas pipeline and hazardous liquid pipeline systems of the potential for girth weld failures due to welding quality issues. Misalignment during welding of large diameter line pipe may cause in-service leaks and ruptures at pressures well below 72 percent specified minimum yield strength (SMYS). PHMSA has reviewed several recent projects constructed in 2008 and 2009 with 20-inch or greater diameter, grade X70 and higher line pipe. Metallurgical testing results of failed girth welds in pipe wall thickness transitions have found pipe segments with line pipe weld misalignment, improper bevel and wall thickness transitions, and other improper welding practices that occurred during construction. A number of the failures were located in pipeline segments with concentrated external loading due to support and backfill issues. Owners and operators of recently constructed large diameter pipelines should evaluate these lines for potential girth weld failures due to misalignment and other issues by reviewing construction and operating records and conducting engineering reviews as necessary.

FOR FURTHER INFORMATION CONTACT: Alan Mayberry by phone at 202–366–5124 or by e-mail at *alan.mayberry@dot.gov.*

SUPPLEMENTARY INFORMATION:

[19] 17 CFR 200.30–3(a)(12).

[1] PRIM states that, because the Bridge is part of a through route for rail transportation, it is a "railroad line" under 49 U.S.C. 10901(a)(4). Rail transportation over the Bridge is currently being performed by Keokuk Junction Railway Company (KJRY), a Class III rail carrier. PRIM does not propose to operate over the Bridge, but acknowledges that, as owner of the Bridge, it would have a residual common carrier obligation to provide rail transportation in the event KJRY ceases to do so. PRIM seeks an exemption for operation on that basis.

I. Background

The Federal pipeline safety regulations in 49 CFR Parts 192 and 195 require operators of natural gas transmission, distribution, and hazardous liquids pipeline systems to construct their pipelines using pipe, fittings, and bends manufactured in accordance with 49 CFR §§ 192.7, 192.53, 192.55, 192.143, 192.144, 192.149, 195.3, 195.101, 195.112, and 195.118 and incorporated standards and listed design specifications. This involves reviewing the manufacturing procedure specification details for weld end conditions for the line pipe, fitting, bend, or other appurtenance from the manufacturer to ensure weld end conditions are acceptable for girth welding.

During the 2008 and 2009 pipeline construction periods, several newly constructed large diameter, 20-inch or greater, high strength (API 5L X70 and X80) natural gas and hazardous liquid pipelines experienced field hydrostatic test failures, in-service leaks, or in-service failures of line pipe girth welds. Post-incident metallurgical and mechanical tests and inspections of the line pipe, fittings, bends, and other appurtenances indicated pipe with weld misalignment, improper bevels of transitions, improper back welds, and improper support of the pipe and appurtenances. In some cases, pipe end conditions did not meet the design and construction requirements of the applicable standards including:

- American Petroleum Institute (API), *Specification for Line Pipe*—5L, (API 5L), 43rd (including Table 8—*Tolerance for Diameter at Pipe Ends* and Table 9—*Tolerances for Wall Thickness*) or 44th editions for the specified pipe grade;
- API 1104, 19th and 20th editions, *Welding of Pipelines and Related Facilities;*
- American Society of Mechanical Engineers (ASME) B31.8, *Gas Transmission and Distribution Piping Systems* or ASME B31.4 *Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids;* and
- Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS) MSS–SP–44–1996 *Steel Pipeline Flanges* and MSS MSS–SP–75–2004 *Specification for High-Test, Wrought, Butt-Welding Fittings.*

Post-incident findings were that in some cases the pipe and induction bend girth weld bevels were not properly transitioned and aligned during welding. In some cases, the girth weld pipe ends did not meet API 5L pipe end diameter and diameter out-of-roundness specifications. Many of the problematic girth welds did not meet API 1104 misalignment and allowable "high-low" criteria.

Some girth welds that failed in-service had non-destructive testing (NDT) quality control problems. NDT procedures, including radiographic film and radiation source selection, were not properly optimized for weld defect detection and repairs. This was particularly the case where there were large variations in wall thickness at transitions. In some situations, NDT procedures were not completed in accordance with established API 1104 and operator procedures.

Many of the integrity issues with transition girth welds were present on pipelines being constructed in hilly terrain and high stress concentration locations such as at crossings, streams, and sloping hillsides with unstable soils. These girth welds had high stress concentrations in the girth weld transitions due to the combination of large variations in wall thickness and improper internal bevels with inadequate pipe support, poor backfill practices and soil movement due to construction activities.

II. Advisory Bulletin ADB–10–03

To: Owners and Operators of Hazardous Liquid and Natural Gas Pipeline Systems.

Subject: Girth Weld Quality Issues Due to Improper Transitioning, Misalignment, and Welding Practices of Large Diameter Line Pipe.

Advisory: Owners and operators of recently constructed large diameter pipelines should evaluate these lines for potential girth weld failures due to misalignment and other issues by reviewing construction and operating records and conducting engineering reviews as necessary. The assessments should cover all large diameter, 20-inch or greater, high strength line pipe transitions and cut factory bends or induction bends installed during 2008 and 2009, and should include material specifications, field construction procedures, caliper tool results, deformation tool results, welding procedures including back welding, NDT records, and any failures or leaks during hydrostatic testing or in-service operations to identify systemic problems with pipe girth weld geometry/out-of-roundness, diameter tolerance, and wall thickness variations that may be defective.

The reviews should ensure that pipelines were constructed in compliance with the Federal pipeline safety regulations in 49 CFR Parts 192 and 195. Operators of natural gas transmission, distribution, and hazardous liquids pipeline systems are required to use pipe and fittings manufactured in accordance with 49 CFR §§ 192.7, 192.53, 192.55, 192.143, 192.144, 192.149, 195.3, 195.101, 195.112, and 195.118 and incorporated standards and listed design specifications.

With respect to the construction process, pipe, fittings, factory bends, and induction bends must be made in accordance with the applicable standards to ensure that weld end dimension tolerances are met for the pipe end diameter and diameter out-of-roundness. API 1104 specifies girth weld misalignment and allowable "high-low" criteria. API 1104—19th edition, § 7.2, *Alignment*, specifies for pipe ends of the same nominal thickness that the offset should not exceed 1/8 inch (3mm) and when there is greater misalignment, it shall be uniformly distributed around the circumference of the pipe, fitting, bend, and other appurtenance. ASME B31.4, Figure 434.8.6(a)–(2), *Acceptable Butt Welded Joint Design for Unequal Wall Thickness* and ASME B31.8, Figure I5, *Acceptable Design for Unequal Wall Thickness*, give guidance for wall thickness variations and weld bevels designs for transitions. API 5L, 43rd edition in Table 8—*Tolerance for Diameter at Pipe Ends* and Table 9—*Tolerances for Wall Thickness*, specifies tolerances for pipe wall thickness and pipe end conditions for diameter and diameter out-of-roundness. MSS–SP–44–1996 specifies weld end tolerances in § 5.3—*Hub Design*, § 5.4—*Welding End*, Figure 1—*Acceptable Designs for Unequal Wall Thickness*, and Figures 2 and 3; and MSS–75–2004 specifies weld end tolerances in § 13.3 and Figures 1, 2, and 3 and Table 3—Tolerances.

Pipeline owners and operators should closely review the manufacturing procedure specifications for the production, rolling, and bending of the steel pipe, fittings, bends, and other appurtenances to make sure that pipe end conditions (diameter and out of roundness tolerances) and transition bevels are suitable for girth welding. Pipeline owners and operators should request or specify manufacturing procedure specification details for weld end conditions for the line pipe, fitting, bend, or other appurtenance from the manufacturer to ensure weld end conditions are acceptable for girth welding.

To ensure the integrity of the pipeline, field personnel that weld line pipe, fittings, bends, and other appurtenances must be qualified, follow qualified procedures, and operators must document the work performed. Operators should verify that field

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The growing number of high-pressure, large diameter hazardous liquid and natural gas pipelines are putting increasing numbers of citizens at risk. New large pipelines must be built to the highest standards and be fully tested using the best available technology to ensure that they comply with safety requirements. Existing pipelines, especially large diameter pipelines, must be tested with greater frequency as they age.

To avoid further fatalities, injuries, and property damage, PHMSA must adapt its safety standards, regulations, and enforcement activities to protect citizens and their property from the greater risk posed by new large high-pressure pipelines. To gain greater public trust and public support for its activities, PHMSA must allow citizens to easily learn what it is doing and increase opportunities for citizens to participate in PHMSA's efforts to protect them.

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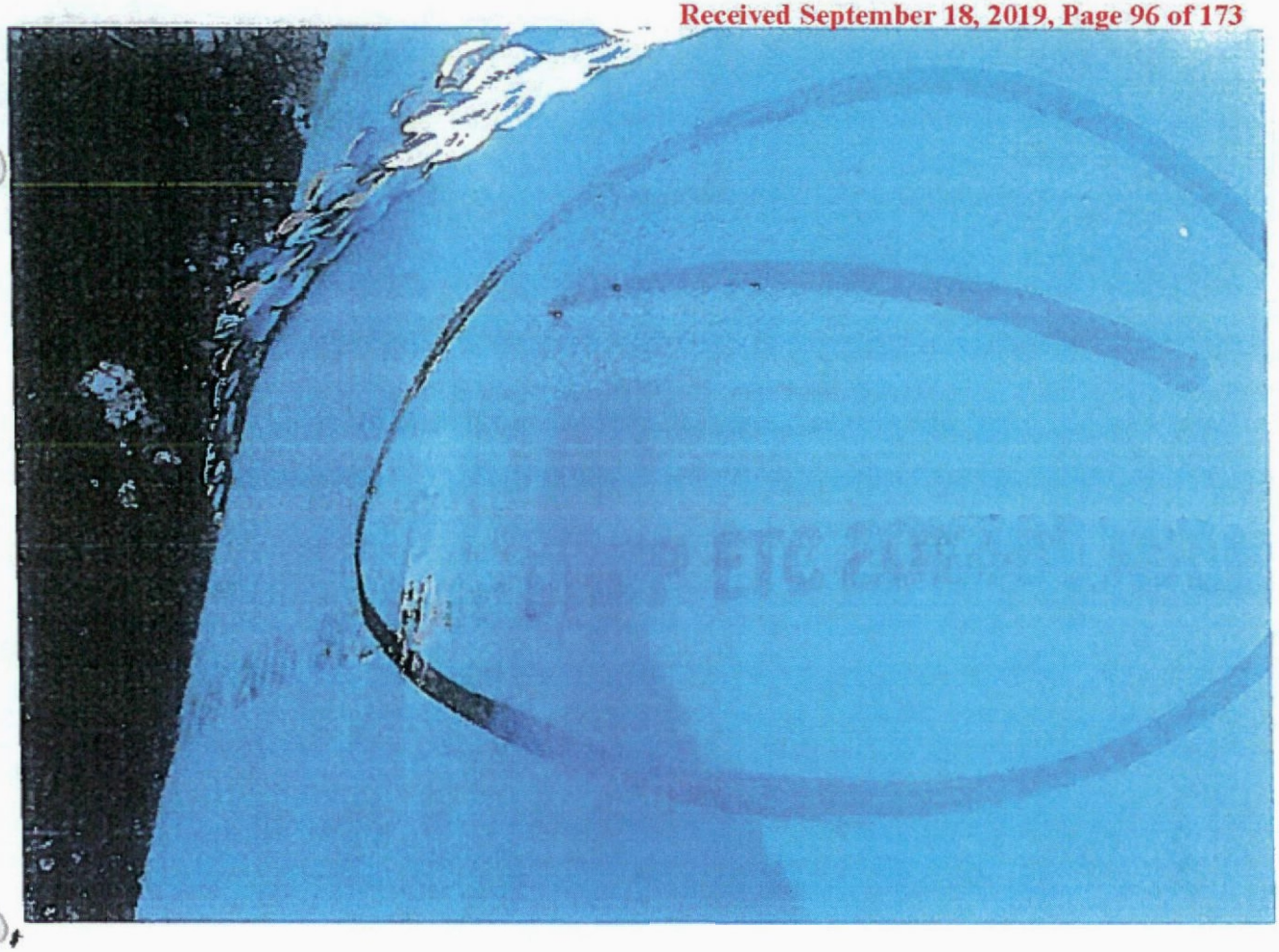

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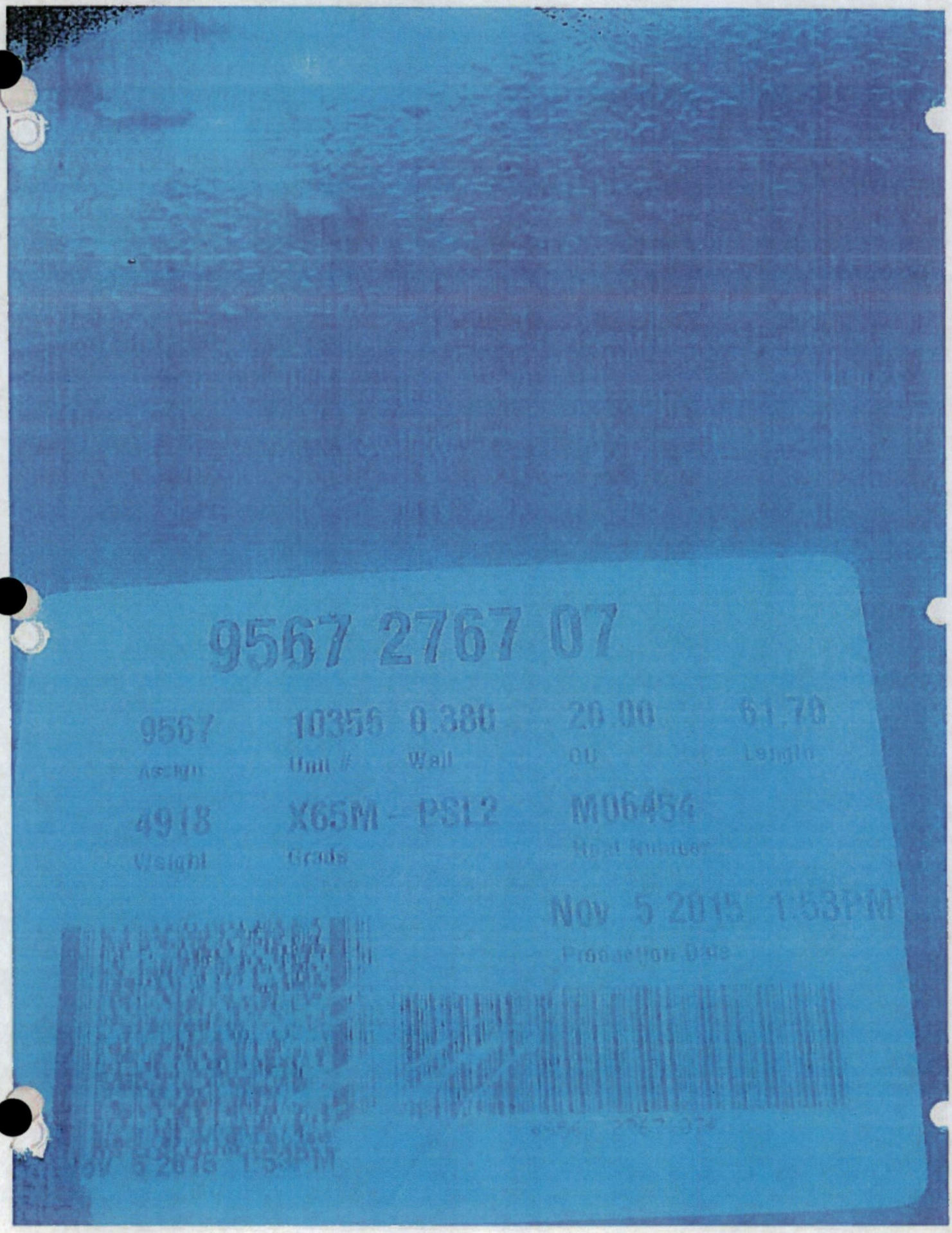
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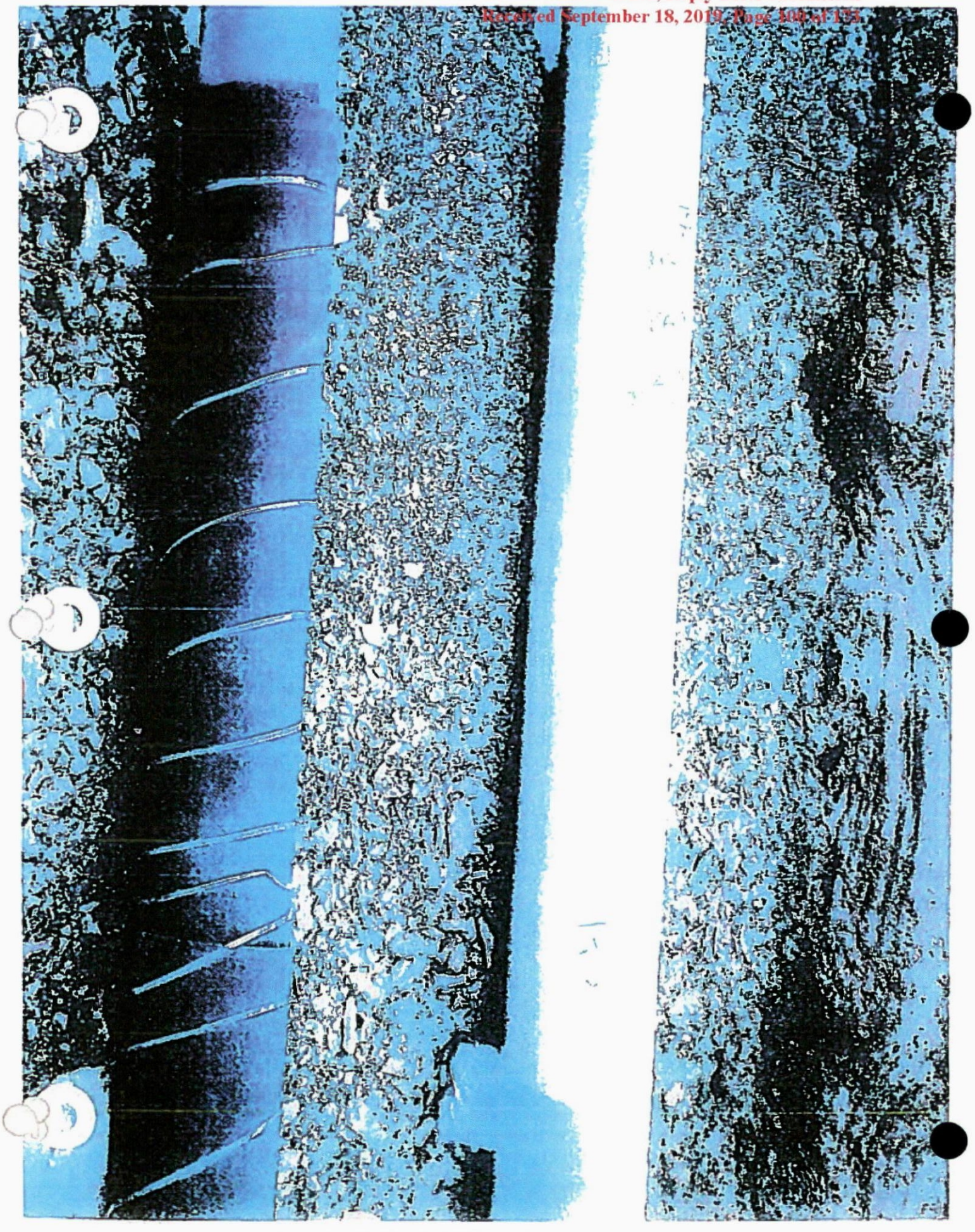

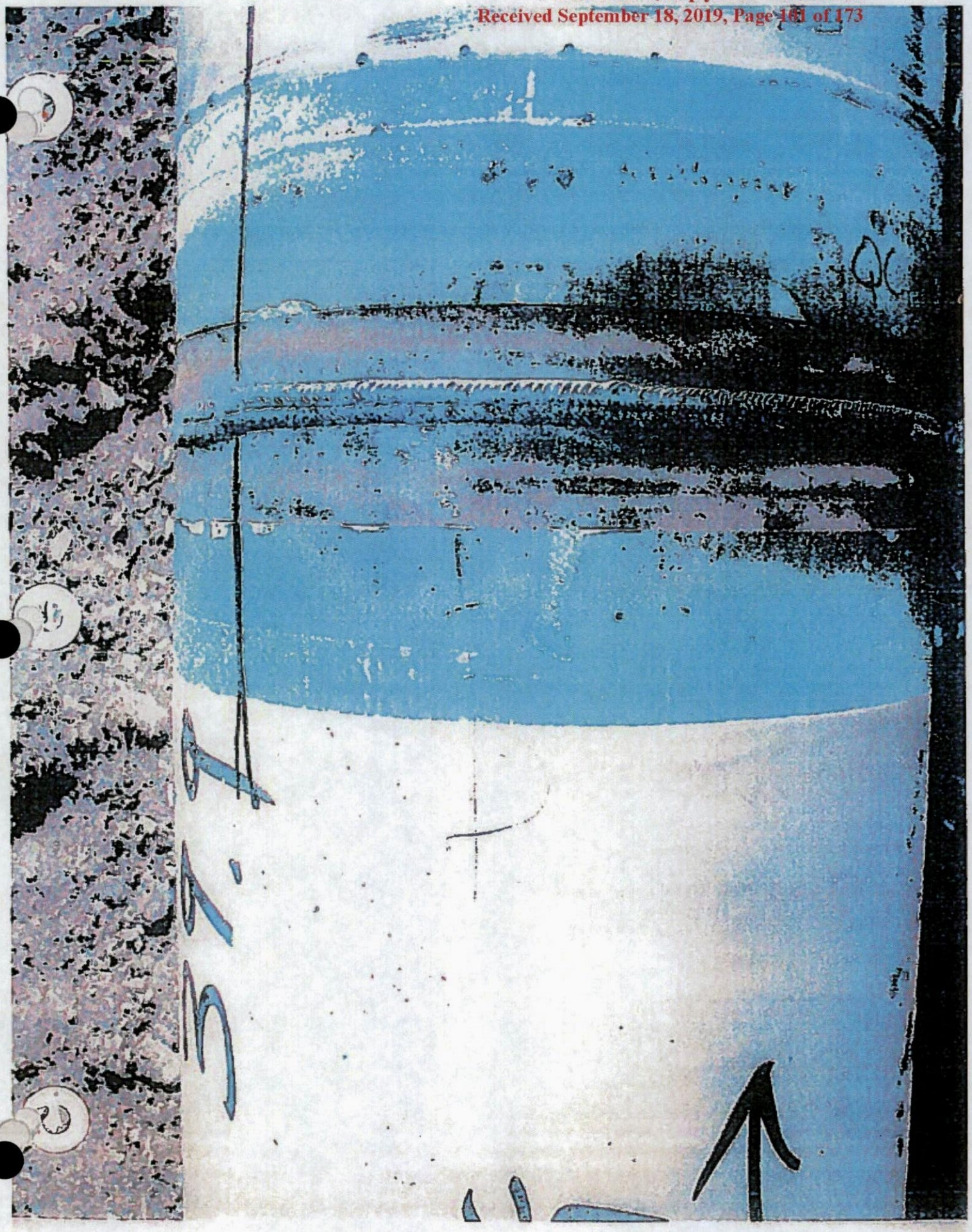

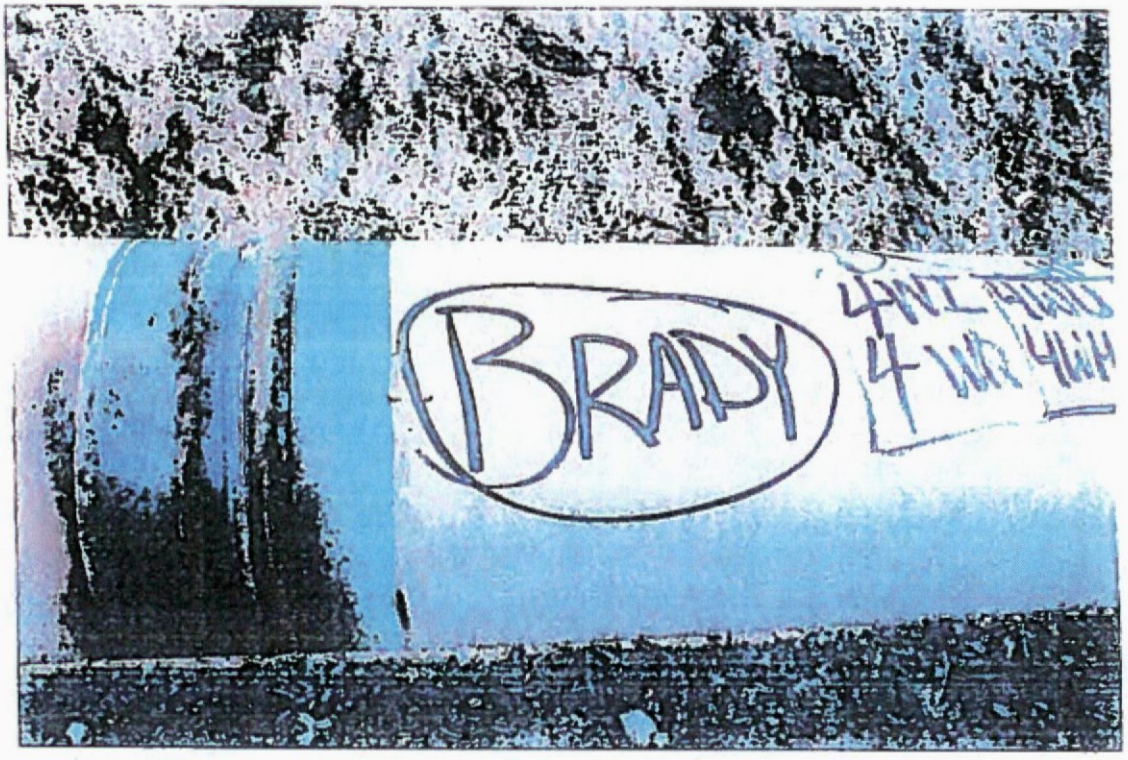

C-6A

AGENCY:

Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION:

Advance notice of proposed rulemaking (ANPRM).

SUMMARY:

PHMSA is seeking public comment on its existing class location requirements for natural gas transmission pipelines as they pertain to actions operators are required to take following class location changes due to population growth near the pipeline. Operators have suggested that performing integrity management measures on pipelines where class locations have changed due to population increases would be an equally safe but less costly alternative to the current requirements of either reducing pressure, pressure testing, or replacing pipe. This request for public comment continues a line of discussion from a Notice of Inquiry published in 2013 and a report to Congress in 2016 regarding whether expanding integrity management requirements would mitigate the need for class location requirements.

DATES:

Persons interested in submitting written comments on this ANPRM must do so by October 1, 2018.

ADDRESSES:

You may submit comments identified by the Docket: PHMSA-2017-0151 by any of the following methods:

E-Gov website: https://www.regulations.gov (https://www.regulations.gov). This site allows the public to enter comments on any **Federal Register** notice issued by any agency. Follow the online instructions for submitting comments.

Fax: 1-202-493-2251.

Mail: Hand Delivery: U.S. DOT Docket Management System, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: Identify the Docket ID at the beginning of your comments. If you submit your comments by mail, submit two copies. If you wish to receive confirmation that PHMSA has received your comments, include a self-addressed stamped postcard. Internet users may submit comments at *https://www.regulations.gov/ (https://www.regulations.gov/).*

Note: Comments are posted without changes or edits to *https://www.regulations.gov (https://www.regulations.gov),* including any personal information provided. There is a privacy statement published on *https://www.regulations.gov (https://www.regulations.gov).*

FOR FURTHER INFORMATION CONTACT:

Technical questions: Steve Nanney, Project Manager, by telephone at 713-272-2855 or by email at *steve.nanney@dot.gov (mailto:steve.nanney@dot.gov).*

General information: Robert Jagger, Technical Writer, by telephone at 202-366-4361 or by email at *robert.jagger@dot.gov (mailto:robert.jagger@dot.gov).*

Outline of This Document

Background

I. Class Location History and Purpose

The class location concept pre-dates Federal regulation of gas transmission pipelines [1] and was an early method of differentiating areas and risks along natural gas pipelines based on the potential consequences of a hypothetical pipeline failure. Class location designations were previously included in the American Standards Association B31.8-1968 version of the "Gas Transmission and Distribution Pipeline Systems" standard, which eventually became the American Society of Mechanical Engineers (ASME) International Standard, ASME B31.8 "Gas Transmission and Distribution Pipeline Systems." The class location definitions incorporated into title 49, Code of Federal Regulations (CFR) § 192.5 were initially derived from the designations in this standard and were first codified on April 19, 1970.[2] These definitions were like the original ASME B31.8 definitions for Class 1 through 3 locations but added an additional Class 4 definition and, with some modifications, still apply today.

Gas transmission pipelines are divided into classes from 1 (rural areas) to 4 (densely populated, high-rise areas) that are based on the number of buildings or dwellings for human occupancy in the area. This concept is to provide safety to people from the effects of a high-pressure natural gas pipeline leak or rupture that could explode or catch on fire. PHMSA uses class locations in 49 CFR part 192 (/select-citation/2018/07/31/49-CFR-192) to implement a graded approach in many areas that provides more conservative safety margins and more stringent safety standards commensurate with the potential consequences based on population density near the pipeline. When crafting the natural gas [D] regulations, DOT's Office of Pipeline Safety (OPS) determined that these more stringent standards were necessary because a greater number of people in proximity to the pipeline substantially increases the probabilities of personal injury and property damage in the event of an accident. At the same time, the external stresses, the

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potential for damage from third-parties, and other factors that contribute to accidents increase along with the population; consequently, additional protective measures are often needed in areas with greater concentrations of population.

The most basic and earliest use of the class location concept focused on the design (safety) margin for the pipeline. As pipelines are designed based, in part, on the population along their pipeline route and therefore the class location of the area, it is important to decrease pipe stresses in areas where there is the potential for higher consequences or where higher pipe stresses could affect the safe operation of a pipeline in larger-populated areas. Pipeline design factors are derating factors that ensure pipelines are operated below 100 percent of the maximum pipe yield strength. From an engineering standpoint, they were developed based on risk to the public [3] and for piping that may face additional operational stresses.[4] Pipeline design factors vary, ranging from 0.72 in a Class 1 location to 0.40 in a Class 4 location. They are used in the pipeline design formula (§ 192.105) to determine the design pressure for steel pipe, and are generally reflected in the maximum allowable operating pressure (MAOP) based upon a percentage of the specified minimum yield strength (SMYS) at which the pipeline can be operated.[5 6] Design factors are used along with pipe characteristics in engineering calculations (Barlow's Formula) to calculate the design pressure and MAOP of a steel pipeline. More specifically, the formula at § 192.105 is $P = (2St/D) \times F \times E \times T$, where P is the design pressure, S is the pipe's yield strength, t is the wall thickness of the pipe, D is the diameter of the pipe, F is the design factor per the class location, E is the longitudinal joint factor,[7] and T is the temperature derating factor.[8] The formula in § 192.105 can be used to calculate the MAOP of a 1000 psig pipeline with the same operating parameters (diameter, wall thickness, yield strength, seam type, and temperature) but in different class locations (and therefore different design factors), and the MAOP of that pipeline in the different class locations would be as follows:

- No class location—design factor = 1.0 (none); MAOP = 1000 psig
- Class 1—design factor = 0.72; MAOP = 720 psig
- Class 2—design factor = 0.60; MAOP = 600 psig
- Class 3—design factor = 0.50; MAOP = 500 psig
- Class 4—design factor = 0.40; MAOP = 400 psig

As therefore evidenced, pipelines at higher class locations will have lower operating pressures and maximum allowable operating pressures due to more stringent design factors to protect people near the pipeline.

As natural gas pipeline standards and regulations evolved, the class location concept was incorporated into many other regulatory requirements, including test pressures, mainline block valve spacing, pipeline design and construction, and operations and maintenance (O&M) requirements, to provide additional safety to populated areas. In total, class location concepts affect 12 of 16 subparts of part 192 and a total of 28 individual sections.[9]

A. Class Location Determinations

Pipeline class locations for onshore gas pipelines are determined as specified in § 192.5(a) by using a "sliding mile." The "sliding mile" is a unit that is 1 mile in length, extends 220 yards on either side of the centerline of a pipeline, and moves along the pipeline. The number of buildings [10] within this sliding mile at any point during the mile's movement determines the class location for the entire mile of pipeline contained within the sliding mile. Class locations are not determined at any given point of a pipeline by counting the number of dwellings in static mile-long pipeline segments stacked end-to-end.

When higher dwelling concentrations are encountered during the continuous sliding of this mile-long unit, the class location of the pipeline rises commensurately. As it pertains to structure counts, a Class 1 location is a class location unit along a continuous mile containing 10 or fewer buildings intended for human occupancy, a Class 2 location is a class location unit along a continuous mile containing 11 to 45 buildings intended for human occupancy, and a Class 3 location is a class location unit along a continuous mile

with four or more stories above ground are prevalent. Whenever there is a change in class location, the cause an apparent overlapping of class locations, the higher-numbered class location applies.

B. Class Location—"Cluster Rule" Adjustments

After proposing the initial natural gas safety regulations in 1970, OPS received several comments stating that the proposed class location definitions could create 2-mile stretches of higher class locations for the sole protection of small clusters of buildings at crossroads or road crossings. Because part 192 regulations become more stringent as class locations increase from Class 1 to 4 locations, pipelines in higher class location areas such as these can result in increased expenditures to the pipeline operator in areas where there is no population. When finalizing the class location definitions as a part of establishing part 192 on August 19, 1970 (35 FR 13248), OPS added a new paragraph to allow operators to adjust the boundaries of Class 2, 3, and 4 locations. Under this provision, operators can choose to end Class 4 location boundaries 220 yards from the furthest edges of a group of 4-story buildings, and operators can choose to end Class 2 and 3 boundaries up to 220 yards upstream and downstream from the furthest edges of a group or "cluster" of buildings.[12] "Clustering," therefore, is a means of reducing the length of a Class 2, 3, or 4 location in a sliding mile unit that requires a Class 2, 3, or 4 location; in other words, it allows operators to cluster or reduce the amount of pipe that is subject to the requirements of a higher class location.[13]

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It is important to note that while clustering allows for the adjustment of the length of class locations in certain areas, it does not change the length of class location units themselves nor the method by which class location units are determined. Further, clustering does not exclude "buildings for human occupancy" in a class location unit/sliding mile, so all buildings within a specified class location unit must be protected by the maximum class location level that was determined for the entire class location unit. This concept becomes especially important when other buildings for human occupancy are built within a class location unit/sliding mile where a cluster exists and an operator has adjusted the class location length to exclude certain lengths of pipe outside of the cluster area.

For instance, assume there is a class location unit/sliding mile containing 47 homes close to one another. The class location unit would be a Class 3 location per the definition provided at § 192.5(b). An operator can consider these homes a "cluster" and appropriately apply the adjustment at § 192.5(c) so that the boundaries of the Class 3 location are 220 yards upstream and downstream from the furthest edges of the clustered homes (buildings for human occupancy). Therefore, while the entirety of the pipeline is in a Class 3 class location unit, the only pipe subject to Class 3 requirements is the length of the cluster plus 220 yards on both sides of the cluster. The remaining pipe in the class location unit/sliding mile, the pipe that is outside of this clustered area, could therefore be operated at Class 1 requirements rather than at the otherwise-required Class 3 requirements.

However, what would happen if new buildings were built within that sliding mile but away from that single cluster? If, per the example above, there is a cluster of 47 homes at one end of a class location unit/sliding mile, and 3 homes are built at the other end of the class location unit, the operator must count and treat those 3 homes as a second cluster, with the length of the cluster plus 220 yards on both sides of the cluster subject to Class 3 requirements. The pipeline between these two clusters would still be in a Class 3 location per its class location unit, as there would be 50 homes within the sliding mile, but the pipeline between the clusters could be operated under Class 1 location requirements. If the 220-yard extensions of any two or more clusters intercept or overlap, the separate clusters must be considered a single cluster for purposes of applying the adjustment.

An operator must use the clustering method consistently to ensure that all buildings for human occupancy within a class location unit are covered by the appropriately determined class location requirements. Any new buildings for human occupancy built in a class location unit where clustering has been used must also be clustered, whether they form a new, independent cluster or are added to the existing cluster. Note that even a

single house could form the basis of a second cluster under this requirement, as all buildings within a specified class location unit must be protected by the maximum class location level that was determined for the entire class location unit.

PHMSA's interpretation to Air Products and Chemicals, Inc., issued on March 11, 2015,[14] explains and diagrams this concept further.

II. Changes in Class Location Due to Population Growth

Class locations can change as the population living or working near a pipeline grows and, as outlined earlier, are specifically determined based on the density of dwellings within the 440-yard-wide (quarter-mile-wide) sliding mile down the pipeline centerline. Class locations are used to determine a pipeline's design factor, which is a component of the design formula equation at § 192.105 and ultimately factors into the pressure at which the pipeline is operated. As population around a pipeline increases and the pipeline's class location increases, the numeric value of the design factor decreases, which translates, via the formula at § 192.105, into a lower MAOP for the pipeline. To illustrate this, a Class 4 location containing a prevalence of 4-or-more-story buildings has a safety factor of 0.4, whereas a Class 2 location containing 11 to 45 dwellings has a safety factor of 0.6. If a Class 2 location is very quickly developed to a point where there is a prevalence of 4-or-more story buildings, the corresponding difference in safety factor when the class location changes, from a 0.6 to a 0.4, equates to a 33% reduction in MAOP per the design formula equation.

A change in class location requires operators to confirm safety factors and to recalculate the MAOP of a pipeline. If the MAOP per the newly determined class location is not commensurate with the present class location, current regulations require that pipeline operators (1) reduce the pipe's MAOP to reduce stress levels in the pipe; (2) replace the existing pipe with pipe that has thicker walls or higher yield strength to yield a lower operating stress at the same MAOP; or (3) pressure test at a higher test pressure if the pipeline segment has not previously been tested at the higher pressure and for a minimum of 8 hours.[15] Depending on the pipeline's test pressure and whether it meets the requirements in §§ 192.609 and 192.611 ("Change in class location: Required study," and "Change in class location: Confirmation or revision of maximum allowable operating pressure," respectively), an operator can base the pipeline's MAOP on a certain safety factor times the test pressure for the new class location as long as the corresponding hoop stress of the pipeline does not exceed certain percentages of the specified minimum yield strength (SMYS) of the pipe.[16] This is often referred to as a "one-class bump," as an operator can use this method when class locations change from a Class 1 to 2, a Class 2 to a 3, or a Class 3 to a 4.

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The §§ 192.5 and 192.611 requirements to change-out pipe, re-pressure test, or de-rate pipe to a lower MAOP when population growth occurs and requires a class location change are the most significant reasons that operators request that class locations be revised or eliminated. Throughout the process of considering class location changes,[17] comments PHMSA received from the trade associations state that reducing a pipeline's operating pressure below that at which the pipeline historically operated may unacceptably restrict deliveries to natural gas customers. These same commenters suggest that pressure testing pipelines may be practicable in select cases, but the test pressure required for higher class locations may exceed what a pipeline is designed to accommodate. Operators also contend that they should not have to change out pipe when a class location change occurs if the operator can prove that the pipe segment is fit for service through integrity assessments.[18]

III. Class Location Change Special Permits

As population growth occurs around pipelines that were formerly in rural areas, some operators have applied for special permits to prevent the need for pipe replacement or pressure reduction when the class location changes. A special permit is an order issued under § 190.341 that waives or modifies compliance with regulatory requirements if the pipeline operator requesting it demonstrates a need and PHMSA determines that granting the special permit would be consistent with pipeline safety. PHMSA performs extensive technical analysis on special permit applications and typically grants special permits on the condition that

publishes a notice and request for comment in the **Federal Register** on each application received and tracks issued, denied, and expired special permits on its website.

Since 2004, PHMSA has approved over 15 class location special permits based on operators adopting additional conditions, including certain operating safety criteria and periodic integrity evaluations.[19 20] Generally, the additional conditions PHMSA requires are designed to identify and mitigate integrity issues that could threaten the pipeline segment and cause failure, especially given the fact that the majority of class location special permits it receives and reviews are for older pipelines that may have manufacturing, construction, or ongoing maintenance issues, such as seam or pipe body cracking, poor external coating, insufficient soil cover, lack of material records, dents, or repairs not made to class location design safety factors.

Typically, PHMSA requires operators to incorporate the affected segments into the company's O&M procedures and integrity management plan, perform additional assessments for threats to the pipeline segments identified during an operator's risk assessment, perform additional cathodic protection [21] and corrosion control measures, and repair any discovered anomalies to a specified schedule. Therefore, the additional monitoring and maintenance requirements PHMSA prescribes through this process help to ensure the integrity of the pipe and protection of the population living near the pipeline segment at a comparable margin of safety and environmental protection throughout the life of the pipe compared to the regulations as written. The class location change special permits that PHMSA has granted have allowed operators to continue operating the pipeline segments identified under the special permits at the current MAOP based on the previous class locations. PHMSA notes that it developed its class location special permit process by adapting Integrity Management (IM) concepts and published the typical considerations for class location change special permit requests in the **Federal Register** in 2004.[22] Based on its experiences when renewing some of the earliest class location change special permits, PHMSA has extended the expiration date of its class location change special permits from 5 years to 10 years. This extension should provide additional regulatory certainty to operators that apply for these permits. Further, throughout the renewal process of existing special permits, PHMSA has not significantly changed the original conditions imposed on individual operators. While PHMSA can make modifications to its special permit conditions when it is in the interest of safety and the public to do so, PHMSA has determined that the present special permit conditions and process are consistent with public safety.

A. Special Permit Conditions

In the special permit conditions and criteria PHMSA published in the **Federal Register** on June 29, 2004, PHMSA outlines several "threshold conditions" pipelines must meet to be considered for a special permit when class locations change. For instance, PHMSA does not consider any pipeline segments for a special permit where the class location those segments are in changes to a Class 4 location. Typically, PHMSA receives special permit requests for pipeline segments where the class location is changing from Class 1 to Class 3. PHMSA also does not consider for class location change special permits any segments that have bare pipe or wrinkle bends. Other manufacturing- and construction-related items PHMSA considers include whether the applicable segments have certain seam types that may be more prone to defects and failures, whether the pipe has certain coating types that provide an adequate level of cathodic protection, and the design strength of the pipe.

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There are also operation and maintenance factors that PHMSA considers when evaluating pipeline segments for class location change special permit feasibility. For example, PHMSA doesn't consider for a Class 1 to Class 3 location change special permit any pipe segments that operate above 72 percent SMYS. Operators also need to produce a hydrostatic test record showing the segment was tested to 1.25 times the MAOP. Also, operators are required to have pipe material records to document the pipelines diameter, wall thickness, strength, seam type and coating type. For operators who do not have these records, PHMSA requires they make these records per the special permit conditions. PHMSA often requires operators to operate each applicable segment at or below its existing MAOP as well.

As part of the special permit conditions, operators are required by PHMSA to incorporate the applicable pipeline segments into their IM program and inspect them on a regular basis according to the operator's procedures. As an extension of this requirement, operators must perform in-line inspections on the applicable segments, and the segments must not have any significant anomalies that would indicate any systemic problems. Additionally, PHMSA's published special permit criteria defines a "waiver inspection area," also known as a "special permit inspection area," as up to 25 miles of pipe on either side of the applicable segment. Operators must incorporate these areas into their IM programs as well and inspect and repair them per the operator's IM program procedures. Some of the factors PHMSA uses when deciding the length of special permit inspection areas are based on factors including what class location the surrounding pipe is in and whether class location "clustering" has been used. For both the special permit segments and the special permit inspection areas, PHMSA also typically requires operators to perform assessments and surveys to identify pipe that may be susceptible to certain issues, especially seam or cracking issues in the pipe seam or pipe body, based on the coating type, vintage, or manufacturing of the pipe. Pipelines in the special permit segments or in the special permit inspection areas that have had a leak or failure history are also taken into consideration when PHMSA develops an individual special permit's conditions so as to prevent similar issues in the future. Further, PHMSA looks at the enforcement history of an operator applying for a special permit as a benchmark for how the operator has followed the Federal Pipeline Safety Regulations when developing the conditions following a special permit request.

In class location change special permit requests, PHMSA also ensures that integrity threats to pipelines in special permit segments and special permit inspection areas are addressed in operator operations and management plans, including a systematic, ongoing program to review and remediate pipeline safety concerns. Some of the typical integrity and safety threats PHMSA would expect operators to address include pipe coating quality, cathodic protection effectiveness, stress corrosion and seam cracking, and any long-term pipeline system flow reversals. To this end, PHMSA often requires coating condition surveys, the remediation of coating, and cathodic protection systems for pipelines where the operator has requested a class location change special permit. Any data gathered on the special permit area and special permit inspection area would have to be incorporated into the operator's greater IM program.

PHMSA incorporates these conditions into class location change special permit requests to ensure that operators meet or exceed the threshold requirements with equivalent safety to the provisions in the Federal Pipeline Safety Regulations that are being waived and ensure that granting the special permit will not be inconsistent with safety.

IV. Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011—Section 5

On January 3, 2012, the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (Pub. L. 112-90 (https://api.fdsys.gov/link?collection=plaw&congress=112&dawtype=public&dawnum=90&link-type=html)) was enacted. Among the many provisions of the Act, Section 5 required PHMSA to evaluate whether IM system requirements, or elements thereof, should be expanded beyond high-consequence areas (HCA) and, with respect to gas transmission pipeline facilities, whether applying IM program requirements, or elements thereof, to additional areas would mitigate the need for class location requirements. PHMSA was required to report the findings of this evaluation to Congress and was authorized to issue regulations pursuant to the findings of the report following a prescribed review period.

A. 2013 Notice of Inquiry: Class Location Requirements

In August 2013, through a Notice of Inquiry, PHMSA solicited comments on whether expanding IM requirements would mitigate the need for class locations in line with the Section 5 mandate of the 2011 Pipeline Safety Act.[23] Several topics were discussed, including whether class locations should be eliminated and a single design factor used, whether design factors should be increased for higher class locations, and whether pipelines without complete material records should be allowed to use a single design factor if class locations were to be eliminated.[24]

lead to improvement to pipeline safety. Further, commenters noted that the implementation of design, in lieu of class location designations might be too complicated to implement. Many commenters noted that any changes in class location requirements would impact not only the classifications of many pipelines but would also possibly create several unintended consequences within part 192, as the class location requirements are referenced or built upon throughout the natural gas regulations.

Several industry trade groups had suggestions for changing the class location regulations, and these suggestions were developed further through subsequent discussions at advisory committee meetings and at public workshops. The Interstate Natural Gas Association of America (INGAA) noted that IM should be extended beyond HCAs with the caveat that PHMSA should examine the effects of such a change on other areas of the pipeline safety regulations. Along with this, it suggested that PHMSA revise certain operations and maintenance requirements that may no longer be necessary given technological advances and IM activities.

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B. 2014 Pipeline Advisory Committee Meeting, Class Location Workshop, and Subsequent Comments

On February 25, 2014, PHMSA hosted a joint meeting of the Gas and Liquid Pipeline Advisory Committees.[25] At that meeting, PHMSA updated the committees on its activities regarding the Section 5 mandate of the 2011 Pipeline Safety Act, and committee members and members of the public provided their comments.

INGAA, reinforcing its comments on the 2013 Notice of Inquiry, noted that the original class location definitions in ASME B31.8 were intended to provide an increased margin of safety for locations of higher population density and stated that IM is a much better risk management tool than class locations. INGAA reiterated that it intends for its members to perform elements of IM on pipelines outside of HCAs.

On April 16, 2014, PHMSA sponsored a Class Location Workshop to solicit comments on whether applying the gas pipeline IM program requirements beyond HCAs would mitigate the need for gas pipeline class location requirements. Presentations were made by representatives from PHMSA, the National Energy Board of Canada (NEB), National Association of Pipeline Safety Representatives (NAPSR), pipeline operators, industry groups, and public interest groups.[26]

During the workshop, INGAA representatives noted that the current class location regulations require changes that result in the replacement of "good pipe," and the special permit process for class location changes should be embedded in part 192. Representatives from the American Gas Association (AGA) noted that applying the current class location change requirements can cost more than $1 million per change. AGA claimed the special permit process for class location changes is burdensome, the renewal process is increasingly complex, and the outcome is uncertain.[27] Therefore, AGA suggested eliminating the special permit process for class location changes and incorporating specific requirements for special permits into part 192 as part of the base regulations. AGA recommended two approach methods, one based on IM and the other using the current class location approach.

Public interest groups including Accufacts and the Pipeline Safety Trust (PST) pointed out how deeply the concept of class locations is embedded in part 192, while also noting that IM requirements and class locations overlap in densely populated areas to provide a redundant, but necessary, safety regime. The PST also suggested that, in time, the older class location method potentially could be replaced with an IM method for regulation. However, the PST noted that incidents and data suggest there is room for improvement in the IM regulations, as data shows higher incident rates in HCAs than in non-HCAs, and noted that pipe installed after 2010 has a higher incident rate than pipe installed a decade earlier. Similarly, Accufacts noted that the incident at San Bruno, CA, exposed weaknesses in the operator's IM program and demonstrated that the consequences resulting from the incident spread far beyond the potential radius in which they were expected to occur.[28] Therefore, Accufacts suggested that shifting the class location approach to solely an IM approach might decrease the protection of public safety.

Following the Class Location Workshop, INGAA submitted additional comments to the docket stating that advancements in IM technology and processes have superseded the need for mandatory pipe replacement following a class location change. It noted that, in the past, it was logical to replace a pipeline when class locations changed because of the widespread belief that thicker pipe would take longer to corrode and would withstand greater external forces, such as damage from excavators, before failure. However, given current technology, improvements in pipe quality, and ongoing regulatory processes such as IM, operators can mitigate most threats without the need for pipe replacement. Therefore, INGAA offered an approach to class locations changes to not require pipe replacement for existing pipelines if pipe segments meet certain requirements that are in line with current IM requirements. Specifically, INGAA suggested that pipelines meeting a "fitness for service" standard in 18 categories of requirements could address potential safety concerns and preclude the need for pipe replacement.[29] The 18 categories are very similar to the special permit conditions that PHMSA uses for a Class 1 to 3 location special permit as noted in the 2004 Federal Register notice.[30]

C. 2016 Class Location Report

The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 required that PHMSA evaluate whether IM should be expanded beyond HCAs and whether such expansion would mitigate the need for class location requirements. In its report titled "Evaluation of Expanding Pipeline Integrity Management Beyond High-Consequence Areas and Whether Such Expansion Would Mitigate the Need for Gas Pipeline Class Location Requirements,"[31] which was submitted to Congress in April 2016 concurrently with the publication of the NPRM titled "Safety of Gas Transmission and Gathering Pipelines" (81 FR 20722 (/citation/81-FR-20722)), PHMSA noted that the application of IM program elements, such as assessment and remediation timeframes, beyond HCAs would not warrant the elimination of class locations.

PHMSA notes that class locations affect all gas pipelines and are integral to determining MAOPs; design pressures; pipe wall thickness; valve spacing; HCAs, in certain cases; and O&M inspection, surveillance, and repair intervals. While IM measures are a critical step towards pipeline safety and are important to mitigate risk, the assessment and remediation of defects do not adequately compensate for these other aspects of class locations. Thus, as outlined in the report, PHMSA determined the existing class location requirements were appropriate for maintaining pipeline safety and should be retained. Therefore, any revisions to the class location requirements would have to be forward-looking (i.e., applying to pipelines constructed after a certain effective date) and would have to comport with the existing regulatory regime to provide commensurate safety if any changes are made to aspects of pipeline safety related to design and construction, which is where key safety benefits of class locations are realized.[32]

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As a part of the continuing discussion on class location changes and subsequent pipe replacement, PHMSA summarized at the end of the Class Location Report the concerns operators expressed regarding the cost of replacing pipe in locations that change from a Class 1 to a Class 3 location or a Class 2 to a Class 4 location. As discussed throughout the document, operators submitted that the safe operation of pipelines constructed in Class 1 locations that later change to Class 3 locations can be achieved using current IM practices.

However, over the past decade, PHMSA observed problems with pipe and fitting manufacturing quality, including low-strength material;[33] construction practices; welding; field coating practices; IM assessments and reassessment practices;[34 35] and record documentation practices.[36 37] These issues give PHMSA pause in considering approaches allowing a two-class bump (Class 1 to 3 or Class 2 to 4) without requiring pipe replacement, especially for higher-pressure transmission pipelines.

PHMSA stated in the conclusion of its Class Location Report that it would further evaluate the feasibility and the appropriateness of alternatives to address issues pertaining to pipe replacement requirements, continue to reach out to and consider input from all stakeholders, and consider future rulemaking if a cost-effective and safety-focused approach to adjusting specific aspects of class location requirements could be developed to address the issues identified by industry. In doing so, PHMSA would evaluate alternatives in the context of other issues it is addressing related to new construction quality- and safety-management systems and will

PHMSA has initiated this rulemaking to gain further information regarding [illegible] resulting in pipe replacement and alternatives to that practice.

V. INGAA Submission on Regulatory Reform—Proposal To Perform IM Measures in Lieu of Pipe Replacement When Class Locations Change

On July 24, 2017, INGAA submitted comments to a DOT docket regarding regulatory review actions (Docket No. OST-2017-0057). In its submission, INGAA estimated that gas transmission pipeline operators incur annual costs of $200-$300 million [38] nationwide replacing pipe solely to satisfy the class location change regulations and requested PHMSA consider revising the current class location change regulations to include an alternative beyond pressure reduction, pressure testing, or pipe replacement.

INGAA's proposed alternate approach focuses on recurring IM assessments that would leverage advanced assessment technologies to determine whether the pipe condition warrants pipe replacement in areas where the class location has changed. INGAA states that such an approach would further promote IM processes and principles throughout the nation's gas transmission pipeline network, improve economic efficiency by reducing regulatory burden, and help fulfill the purposes of Section 5 of the 2011 Pipeline Safety Act.

INGAA claims that the current alternatives to pipe replacement following a class location change do not reflect the substantial developments in IM processes, technologies, and regulations over the past 15-plus years. More specifically, in-line inspection (ILI) technologies, such as high-resolution magnetic flux leakage tools, can precisely assess the presence of corrosion and other potential defects, allowing an operator to establish whether a pipeline segment requires remediation or replacement.[39]

INGAA further notes that PHMSA's proposed rulemaking titled "Safety of Gas Transmission and Gathering Pipelines" aims to expand IM assessments to newly defined "Moderate Consequence Areas" (proposed § 192.710), and such an expansion provides a framework for developing an alternative for managing class location changes. INGAA suggests that the costs saved from avoiding pipe replacement using such an alternative could mitigate, to some degree, part of the costs of the proposed rulemaking. Additionally, INGAA notes that the proposed rulemaking contains several new provisions that will require operators to better manage the integrity of their pipelines by implementing more preventative and mitigative measures to manage the threat of corrosion. INGAA states that the inclusion of such corrosion control measures as a part of a program for managing the integrity of pipeline segments, including ones that have experienced class location changes, would further justify the development of an IM-focused alternative to class location changes.

Based on those statements, INGAA recommends PHMSA develop an alternative approach to § 192.611 that leverages the proposed § 192.710 for areas outside of HCAs and the IM requirements at § 192.921 to require recurring IM assessments and incorporation of those affected pipeline segments into IM programs. Further, INGAA suggests this approach require operators to reconfirm pipeline MAOP in a changed class location for any pipeline segment without traceable, verifiable, and complete records of a hydrostatic pressure test supporting the segment's previous MAOP.

PHMSA acknowledges that the class location change regulations predate the development of modern pipeline inspection technology such as ILI, above-ground surveys, and modern integrity management processes. In fact, it wasn't until the mid-1990s that PHMSA, following models from other industries such as nuclear power, started to explore whether a risk-based approach to regulation could improve public and environmental safety. PHMSA finalized the IM regulations for gas transmission pipelines on December 15, 2003,[40] in response to tragic incidents on pipelines in Bellingham, WA, in 1999 and near Carlsbad, NM, in 2000, which killed 3 people and 12 people, respectively. The IM regulations designated HCAs where operators would perform periodic assessments of the condition of their pipelines and make necessary repairs within specific timeframes if discovered anomalies met certain criteria. More specifically, the IM regulations outline the risk-based processes that pipeline operators must use to identify, prioritize, assess, evaluate, repair, and validate the integrity of gas transmission pipelines.

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flow to clean the inside of their pipelines. This pigging concept was later adapted through the application of technology to measure and record irregularities in the pipe and welds that may represent corrosion, cracks, deformations, and other defects. Now operators use ILI technology ("smart pigging or ILI") as a backbone of the modern IM program. ILI tools are inserted into pipelines at locations, such as near valves or compressor stations, that have special configurations of pipes and valves where the ILI tools can be loaded into launchers, the launchers can be closed and sealed, and the flow of the product the pipeline is carrying can be directed to launch the tool down the pipeline. A similar setup is located downstream where the tool is directed out of the main line into a receiver so that an operator can remove the tool and retrieve the recorded data for analysis and reporting. ILI tools come in several different varieties that have distinct advantages and disadvantages over other methods of pipeline assessment. For instance, while some ILI tools might be able to reliably determine whether a pipeline has internal corrosion, the same tool might not be able to determine whether the pipeline has any crack indications. In selecting the tools most suitable for inline inspections, pipeline operators must know the type of threats that are applicable to the pipeline segment. Threats that ILI tools can identify typically include existing pipe wall thickness, pipe wall changes, pipe wall loss, cracking, and dents.

At the time the class location regulations were promulgated, it was logical to replace a pipeline when population growth resulted in a class location change in order to restore the safety margin appropriate for that location because the industry did not have the technology that is available today to learn the *in situ* material condition of the pipe. Further, since the existing pipe would not achieve a similar safety margin as replaced pipe, operators would need to use applicable inspection technology and pressure testing to ensure pipe has the correct wall thickness; strength; seam condition; toughness; no detrimental cracking or corrosion in the pipe body or seam; and a pipe coating that has not deteriorated or shields cathodic protection currents to allow corrosion or cracking issues such as girth weld cracking, stress corrosion cracking, or selective seam weld corrosion.

Currently, operators are not required to inspect pipelines or otherwise perform IM on those portions of pipelines unless they are within high consequence areas (HCAs) or the operator otherwise voluntarily assesses them and performs remediation measures for threats to the pipeline. As such, while prudent operators may know the characteristics and conditions of their pipelines outside of HCAs and can be confident that they can manage class location change expectations through the performance of IM measures, some operators may not.

PHMSA notes that while class locations and HCAs both provide additional protection to areas with high population concentrations, they were designed for different purposes. Unlike class locations, which provide blanket levels of safety throughout the nation's pipeline network at all locations by driving MAOP and design, construction, testing, and O&M requirements, the purpose of the IM regulations is to provide a structure for operators to focus their resources on improving pipeline integrity in the areas where a failure would have the greatest impact on public safety. Whereas over time the safety margins that class locations provide can be reduced due to corrosion or other types of pipe degradation, IM requirements provide a continuing minimum safety margin for more densely populated areas because operators are required to inspect and repair those applicable pipelines at a minimum of every 7 years and more frequently based upon risk assessments of threats to the segment in the HCA.

PHMSA acknowledges that applying modern IM assessments and processes could potentially be a comparable alternative to pipe change-outs. PHMSA notes that if operators perform integrity assessments on significant portions of non-HCA pipe mileage, PHMSA could further consider operators using such assessments to determine whether pipe in a changed class location is fit for service rather than having to replace it.

PHMSA is concerned, however, that some issues that result in pipeline failures, including poor construction practices [41] and operational maintenance threats, are not always being properly assessed and mitigated by operators, whether due to lack of technology or other causes. Further, as the incident at San Bruno in 2010 showed, operators may not have traceable, verifiable, and complete records of pipe properties, such as pipe

that are critical and necessary for IM processes and pipeline safety in Class 3 and 4 locations and HCAs where there are higher population densities. PHMSA also points out that there might be instances where a pipeline may be in "good condition" from a visual standpoint, but it may not have the initial pipe manufacturing, pipe strength, construction quality, and O&M history requirements that add the extra level of safety required by the regulations for the higher population density area and the MAOP.[42] Section 192.611 already allows a "one-class location" bump for pipeline class locations that are in satisfactory physical condition and have the required pressure test.

Because of these factors, PHMSA seeks comment on the potential safety consequences of altering the current class location methodology and moving to an IM-only method in certain areas.

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VI. Questions for Consideration

PHMSA is requesting comments and information that will be used to determine if revisions should be made to the Federal Pipeline Safety Regulations regarding the current requirements operators must meet when class locations change. The list of questions below is not exhaustive and represents an effort to help in the formulation of comments. Any additional information that commenters determine would be beneficial to this discussion is also welcomed.

Q1—When the population increases along a pipeline route that requires a class location change as defined at § 192.5, should PHMSA allow pipe integrity upgrades from Class 1 to Class 3 locations by methods other than pipe replacement or special permits?[43] Why or why not?

1a.—Should part 192 continue to require pipe integrity upgrades when class locations change from Class 1 to Class 3 locations or Class 2 to 4 locations? Why or why not?

1b.—Should part 192 continue to require pipe integrity upgrades from Class 1 to Class 3 locations for the "cluster rule" (see § 192.5(c)) when 10 or fewer buildings intended for human occupancy have been constructed along the pipeline segment? Why or why not?

1c.—Should part 192 continue to require pipe integrity upgrades for grandfathered pipe (*e.g.*, pipe segments without a pressure test or with an inadequate pressure test, operating pressures above 72% SMYS, or inadequate or missing material records; see § 192.619(c))? Why or why not?

Q2—Should PHMSA give operators the option of performing certain IM measures in lieu of the existing measures (pipe replacement, lower the operating pressure, or pressure test at a higher pressure; see § 192.611) when class locations change from Class 1 to Class 3 due to population growth within the sliding mile? Why or why not?

2a.—If so, what, if any, additional integrity management and maintenance approaches or safety measures should be applied to offset the impact on safety these proposals might create?

Q3—Should PHMSA give operators the option of performing certain IM measures in lieu of the existing measures (pipe replacement with a more conservative design safety factor or a combination of pressure test and lower MAOP) when class locations change due to additional structures being built outside of clustered areas within the sliding mile, if operators are using the cluster adjustment to class locations per § 192.5(c)(2)? Why or why not?

3a.—If so, what, if any, additional integrity management and maintenance approaches or safety measures should be applied to offset the impact on safety these proposals might create?

3b.—At what intervals and in what timeframes should operators be required to assess these pipelines and perform remediation measures?

locations change from Class 1 to Class 3, should some sort of "fitness for service" standard determining which pipelines are eligible? Why or why not?

4a.—If so, what factors should make a pipeline eligible or ineligible?

(i) Should grandfathered pipe (lacking records, including pressure test or material records) or pipe operating above 72% SMYS be eligible? Why or why not?

(ii) Should pipe that has experienced an in-service failure, was manufactured with a material or seam welding process during a time or by a manufacturer where there are now known integrity issues or has lower toughness in the pipe and weld seam (Charpy impact value) be eligible? Should pipe with a failure or leak history be eligible? Why or why not?

(iii) Should pipe that contains or is susceptible to cracking, including in the body, seam, or girth weld, or having disbonded coating or CP shielding coatings be eligible? Are there coating types that should disqualify pipe? Should some types of pipe, such as lap-welded, flash-welded, or low-frequency electric resistance welded pipe be ineligible? Should pipe where the seam type is unknown be ineligible? Why or why not?

(iv) Should pipe with significant corrosion (wall loss) be eligible for certain IM measures, or should it be replaced? Why or why not?

(v) Should anomalies be repaired similar to IM, allowed to grow to only a 10-percent safety factor [44] (§ 192.933(d)) before remediation in high population areas such as Class 2, 3 and 4 locations, or should they have an increased safety factor for remediation should these class location factors be eliminated? Why or why not?

(vi) Should pipe that has been damaged (dented) or has lost ground cover due to 3rd party activity (excavation or other) be eligible? Why or why not?

(vii) Should pipe lacking cathodic protection due to disbonded coating be eligible? Why or why not?

(viii) Should pipe with properties such as low frequency electric resistance weld (LF-ERW), lap welded, or other seam types that have a history of seam failure due to poor manufacturing properties or seam types that have a derating factor below 1.0 be eligible? Why or why not?

4b.—Should PHMSA base any proposed requirements off its criteria used for considering class location change waivers (69 FR 38948 (/citation/69-FR-38948); June 29, 2004), including the age and manufacturing and construction processes of the pipe, and O&M history? Why or why not?

4c.—In the 2004 Federal Register notice (69 FR 38948 (/citation/69-FR-38948)), PHMSA outlines certain requirements pipelines must meet to be eligible for waiver consideration, including no bare pipe or pipe with wrinkle bends, records of a hydrostatic test to at least 1.25 times MAOP, records of ILI runs with no significant anomalies that would indicate systemic problems, and agreement that up to 25 miles of pipe both upstream and downstream of the waiver location must be included in the operator's IM program and periodically inspected using ILI technology. Further, the criteria provides no waivers for segments changing to Class 4 locations or for pipe changing to a Class 3 location that is operating above 72% SMYS. Should PHMSA require operators and pipelines to meet the threshold conditions outlined earlier in this document (Section 3A; "Class Location Change Special Permits—Special Permit Conditions) or other thresholds to be eligible for a waiver when class locations change? Why or why not?

Q5—As it is critical for operators to have traceable, verifiable, and complete (TVC) records to perform IM, should operators be required to have TVC records as a prerequisite for performing IM measures on segments instead of replacing pipe when class locations change? Why or why not?

yield strength, seam type, and wall thickness; coating type; O&M history; leak and failure history; pressure test records; MAOP; class location; depth of cover; and ability to be in-line inspected?

5b.—If operators do not have TVC records for affected segments and TVC records were a prerequisite for performing IM measures on pipeline segments in lieu of replacing pipe, how should those records be obtained, and when should the deadline for obtaining those records be?

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Q6—Should PHMSA incorporate its special permit conditions regarding class location changes into the regulations, and would this incorporation satisfy the need for alternative approaches? Why or why not? (Examples of typical PHMSA class location special permit conditions can be found at *https://primis.phmsa.dot.gov/classloc/documents.htm (https://primis.phmsa.dot.gov/classloc/documents.htm).*)

6a.—What, if any, special permit conditions could be incorporated into the regulations to provide regulatory certainty and public safety in these high population density areas (Class 2, 3, and 4)?

Q7—For all new and replaced pipelines, to what extent are operators consulting growth and development plans to avoid potentially costly pipe change-outs in the future?

Q8—What is the amount of pipeline mileage per year being replaced due to class location changes for pipelines: (1) Greater than 24 inches in diameter, (2) 16-24 inches in diameter, and (3) less than 16 inches in diameter?

8a.—Of this mileage, how much is being replaced due to class locations changing when additional structures for human occupancy are built near clustered areas, if operators are using the cluster adjustment to class locations per § 192.5(c)(2)?

8b.—At how many distinct locations are pipe replacements occurring due to class location changes and that involve pipe with these diameters?

8c.—What is the average amount of pipe (in miles) being replaced and cost of replacement at the locations described in question 8b. and for these diameter ranges due to class location changes?

Q9—Should any additional pipeline safety equipment, preventative and mitigative measures, or prescribed standard pipeline predicted failure pressures more conservative than in the IM regulations be required if operators do not replace pipe when class locations change due to population growth and perform IM measures instead? Why or why not?

9a.—Should operators be required to install rupture-mitigation valves or equivalent technology? Why or why not?

9b.—Should operators be required to install SCADA systems for impacted pipeline segments? Why or why not?

Q10—Should there be any maximum diameter, pressure, or potential impact radius (PIR) limits that should disallow operators from using IM principles in lieu of the existing requirements when class locations change? For instance, PHMSA has seen construction projects where operators are putting in 42-inch-diameter pipe designed to operate at up to 3,000 psig. The PIR for that pipeline would be over 1,587 feet, which would mean the total blast diameter would be more than 3,174 feet.

VII. Regulatory Notices

A. Executive Order 12866, Executive Order 13563, (/executive-order/13563) Executive Order 13771, (/executive-order/13771) and DOT Regulatory Policies and Procedures

a "reasoned determination that the benefits of the intended regulation justify its costs." The agency is to adopt regulations that "impose the least burden on society." Executive Order 13771 (/executive-order/13771) ("Reducing Regulation and Controlling Regulatory Costs"), issued January 30, 2017, provides that "it is essential to manage the costs associated with the governmental imposition of private expenditures required to comply with Federal regulations." One way to manage the costs of rulemakings is to propose new regulations that are deregulatory in nature, *i.e.* regulations that reduce the cost of regulatory compliance. PHMSA seeks information on whether this rulemaking could result in a deregulatory action under E.O. 13771, (/executive-order/13771) meaning that a potential final rule could have "total costs less than zero." [45] We therefore request comments, including specific data if possible, concerning the costs and benefits of revising the pipeline safety regulations to accommodate any of the changes suggested in the advance notice.

B. Executive Order 13132 (/executive-order/13132): Federalism

Executive Order 13132 (/executive-order/13132) requires agencies to assure meaningful and timely input by State and local officials in the development of regulatory policies that may have a substantial, direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. PHMSA is inviting comments on the effect a possible rulemaking adopting any of the amendments discussed in this document may have on the relationship between national government and the States.

C. Regulatory Flexibility Act

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 (https://api.fdsys.gov/link?collection=uscode&title=5&year=mostrecent&section=601&type=usc&link-type=html) *et seq.*), PHMSA must consider whether a proposed rule would have a significant impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations under 50,000. If your business or organization is a small entity and if adoption of any of the amendments discussed in this ANPRM could have a significant economic impact on your operations, please submit a comment to explain how and to what extent your business or organization could be affected and whether there are alternative approaches to the regulations the agency should consider that would minimize any significant negative impact on small business while still meeting the agency's statutory objectives.

D. National Environmental Policy Act

The National Environmental Policy Act of 1969 requires Federal agencies to consider the consequences of Federal actions and that they prepare a detailed statement analyzing them if the action significantly affects the quality of the human environment. Interested parties are invited to address the potential environmental impacts of this ANPRM, including comments about compliance measures that would provide greater benefit to the human environment or any alternative actions the agency could take that would provide beneficial impacts.

E. Executive Order 13175 (/executive-order/13175): Consultation and Coordination with Indian Tribal Governments

Executive Order 13175 (/executive-order/13175) requires agencies to assure meaningful and timely input from Indian Tribal Government representatives in the development of rules that "significantly or uniquely affect" Indian communities and that impose "substantial and direct compliance costs" on such communities. We invite Indian Tribal governments to provide comments on any aspect of this ANPRM that may affect Indian communities.

F. Paperwork Reduction Act

Under 5 CFR part 1320 (/select-citation/2018/07/31/5-CFR-1320), PHMSA analyzes any paperwork burdens if any information collection will be required by a rulemaking. We invite comment on the need for any collection of information and paperwork burdens related to this ANPRM.

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G. Privacy Act Statement

of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). DOT's complete Privacy Act Statement was published in the **Federal Register** on April 11, 2000 (65 FR 19477 (/citation/65-FR-19477)).

Issued in Washington, DC, on July 25, 2018, under authority delegated in 49 CFR 1.97 (/select-citation/2018/07/31/49-CFR-1.97).

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

Footnotes

1. The Department of Transportation first proposed class location regulations on March 24, 1970 (35 FR 5012). The proposal was part of a series of NPRMs published in response to the Natural Gas Pipeline Safety Act of 1968 (Pub. L. 90-481). The NPRMs were directed at developing a comprehensive system of Federal safety standards for gas pipeline facilities and for the transportation of gas through such pipelines. The class location rulemaking was finalized on August 19, 1970, as part of a consolidated rulemaking establishing the first minimum Federal safety standards for the transportation of natural gas by pipelines (35 FR 13248).
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2. 35 FR 13248.
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3. For instance, the number of human dwellings near the pipeline or the type of dwelling (hospital, school, playground, nursing care facility, etc.).
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4. This can include piping at compressor stations, metering stations, fabrications, and road or railroad crossings.
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5. Design factors for steel pipe are listed in § 192.111. Class 1 locations have a 0.72 design factor, Class 2 locations have a 0.60 factor, Class 3 locations have a 0.50 factor, and Class 4 locations have a 0.40 design factor.
6. SMYS is an indication of the minimum stress a pipe may experience that will cause plastic, or permanent, deformation of the steel pipe.
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7. The seam type of a pipeline, per this formula, has a limiting effect on the MAOP of the pipeline. While it is typically "1.00" and does not affect the calculation, certain types of furnace butt-welded pipe or pipe not manufactured to certain industry standards will have factors of 0.60 or 0.80, which will necessitate a reduction in design pressure.
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8. The temperature derating factor ranges from 1.000 to 0.867 depending on the operating temperature of the pipeline. Pipelines designed to operate at 250 degrees Fahrenheit and lower have a factor of 1.000, which does not affect the design pressure calculation. Pipelines designed to operate at higher temperatures, including up to 450 degrees Fahrenheit, will have derating factors that will lower the design pressure of the pipeline.
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9. §§ 192.5, 192.8, 192.9, 192.65, 192.105, 192.111, 192.123, 192.150, 192.175, 192.179, 192.243, 192.327, 192.485, 192.503, 192.505, 192.609, 192.611, 192.613, 192.619, 192.620, 192.625, 192.705, 192.706, 192.707, 192.713, 192.903, 192.933, and 192.935.
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residence, for business, or for another purpose. For the purposes of this rulemaking, a "building" may be interchangeably referred to as a "home," a "house," or a "dwelling."
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11. Under § 192.5, Class 1 locations also include offshore areas, and Class 3 locations contain areas where the pipeline lies within 100 yards of a building or a small, well-defined outside area (including playgrounds, recreation areas, and outdoor theaters) that is occupied by 20 or more persons at least 5 days a week for 10 weeks in any 12-month period. The days and weeks need not be consecutive.
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12. See § 192.5(c)(1) & (2).
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13. For example, if all buildings for human occupancy in a sliding mile containing enough buildings to require a Class 3 location were clustered in the middle of that sliding mile, the Class 3 area would end 220 yards from the nearest building (on either side of the cluster through which the pipeline passes) rather than at the end of the 1-mile class location unit that would otherwise be the basis for classification. Thus, if the cluster were 200 yards in length, the total length of the Class 3 area would be 640 yards (220 + 200 + 220).
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14. PHMSA Interpretation #PI-14-0017, available at https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/legacy/interpretations/Interpretation%20Files/Pipeline/2015/Air_Products_PI_14_0017_10_01_2014_Part_192.5.pdf (https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/legacy/interpretations/Interpretation%20Files/Pipeline/2015/Air_Products_PI_14
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15. See § 192.611 as appropriate to one-class changes (e.g., Class 1 to 2 or Class 2 to 3 or Class 3 to 4). As an example, for a Class 1 to Class 2 location change, the pipeline segment would require a pressure test to 1.25 times the MAOP for 8 hours. Following a successful pressure test, the pipeline segment would not need to be replaced with new pipe, but the existing design factor of 0.72 for a Class 1 location would be acceptable for a Class 2 location.
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16. See § 192.611. Specifically, if the applicable segment has been hydrostatically tested for a period of longer than 8 hours, the MAOP is 0.8 times the test pressure in Class 2 locations, 0.667 times the test pressure in Class 3 locations, or 0.555 times the test pressure in Class 4 locations. The corresponding hoop stress may not exceed 72% of SMYS of the pipe in Class 2 locations, 60% of SMYS in Class 3 locations, or 50% of SMYS in Class 4 locations.
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17. See Section IV of this document. In the context of this rulemaking, PHMSA has been considering issues related to class location requirements since publishing an ANPRM on the gas transmission regulations in 2011. Following that, PHMSA published a notice of inquiry soliciting comments on expanding gas IM program requirements and mitigating class location requirements (78 FR 46560 (/citation/78-FR-46560); August 1, 2013) and held a public meeting on the notice of inquiry topics on April 16, 2014 (both actions under Docket Number PHMSA-2013-0161). PHMSA also received comments on the issues discussed in this rulemaking in the docket titled "Transportation Infrastructure: Notice of Review of Policy, Guidance, and Regulations Affecting Transportation Infrastructure Projects" which was noticed in the Federal Register on June 8, 2017 (82 FR 26734 (/citation/82-FR-26734); Docket Number OST-2017-0057).
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18. Operators did not outline the type of integrity assessments that would be appropriate from their perspective nor the factors that should be considered to determine whether a pipeline segment is fit for service (such as pipe, pipe seam, or coating conditions; O&M history; material properties; pipe depth of cover; non-destructive testing of girth welds; type pipe coatings used and if they shield cathodic protection; seam type; failure or leak history; and pressure testing or acceptance criteria and any re-evaluation intervals).
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19. Special permit conditions are implemented to mitigate the causes of gas transmission incidents and are based on the type of threats pertinent to the pipeline. The conditions are generally more heavily weighted on identifying: Material, coating and cathodic protection issues, pipe wall loss, pipe and weld cracking,

patrols, pressure tests and documentation, data integration of integrity issues, and reassessment intervals.

20. Examples of PHMSA's class location special permit conditions can be found at: https://primis.phmsa.dot.gov/classloc/docs/SpecialPermit_ExampleClassLocSP_Conditions_090112_draft1.pdf (https://primis.phmsa.dot.gov/classloc/docs/SpecialPermit_ExampleClassLocSP_Conditions_090112_draft1.pdf), and more information about PHMSA's special permit process for class location changes can be found at: https://primis.phmsa.dot.gov/classloc/documents.htm (https://primis.phmsa.dot.gov/classloc/documents.htm)
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21. Cathodic protection is a technique used to control the corrosion of a metal surface by making it the cathode of an electrochemical cell. This can be achieved with a special coating on the external surface of the pipeline along with an electrical system and anodes buried in the ground or with a "sacrificial" or galvanic metal acting as an anode. In these systems, the anode will corrode before the protected metal will.
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22. Federal Register (69 FR 38948 (/citation/69-FR-38948), June 29, 2004). Additional guidance is provided online at: http://primis.phmsa.dot.gov/classloc/index.htm (http://primis.phmsa.dot.gov/classloc/index.htm). Public notices were published in Federal Register: 69 FR 22115 (/citation/69-FR-22115) and 69 FR 38948 (/citation/69-FR-38948), dated April 23, 2004 and June 29, 2004: Docket No. RSPA-2004-17401—Pipeline Safety: Development of Class Location Change Waiver (Special Permit).
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23. Federal Register (78 FR 46560 (/citation/78-FR-46560), August 1, 2013).
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24. Regarding these questions, PHMSA received 30 comment letters, available at www.regulations.gov (http://www.regulations.gov) at docket PHMSA-2013-0161.
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25. The Pipeline Advisory Committees are statutorily mandated advisory committees that advise PHMSA on proposed safety standards, risk assessments, and safety policies for natural gas and hazardous liquid pipelines (49 U.S.C. 60115 (https://api.fdsys.gov/link?collection=uscode&title=49&year=mostrecent&section=60115&type=usc&link-type=html)). These Committees were established under the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. app. 1-16) and the Federal Pipeline Safety Statutes (49 U.S.C. chap. 601-603). Each committee consists of 15 members, with membership divided among Federal and State agency representatives, the regulated industry, and the public.
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26. Meeting presentations are available online at: http://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=95 (http://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=95).
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27. PHMSA notes that the special permit process is outlined in § 190.341 and is no different for the class location regulations than for any other pipeline safety regulation. Of the 18 special permits up for renewal from 2010-2017, 9 of them were for class location changes. When reviewing the class location change permits up for renewal, PHMSA found no safety reason to extensively modify any of the prior permits and made no major revisions to any of the previously imposed safety conditions.
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28. The potential impact radius for the ruptured pipe segment involved in the San Bruno incident was calculated at 414 feet. However, the NTSB, in its accident report (NTSB/PAR-11/01), noted that the subsequent fire damage extended to a radius of about 600 feet from the blast center.
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29. Those 18 categories were as follows: Baseline Engineering and Record Assessments—Girth Weld Assessment, Casing Assessment, Pipe Seam Assessment, Field Coating Assessment, Cathodic Protection, Interference Currents Control, Close Interval Survey, Stress Corrosion Cracking Assessments, In-line Inspection Assessments, Metal Loss Anomaly Management, Dent Anomaly Management, Hard Spots

Failure or Leak, Line Markers, Patrols, Damage Prevention Best Practices, Recordkeeping & Documentation.
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30. See also: http://primis.phmsa.dot.gov/classloc/index.htm (http://primis.phmsa.dot.gov/classloc/index.htm).
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31. https://www.regulations.gov/document?D=PHMSA-2011-0023-0153 (https://www.regulations.gov/document?D=PHMSA-2011-0023-0153).
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32. In its comments following the public workshop on Class Locations in 2014, INGAA noted that, after further analysis, it appears that applying the Potential Impact Radius (PIR) method to existing pipelines may be unworkable.
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33. PHMSA has documented pipe material low-strength issues through an advisory bulletin and the following website link: http://primis.phmsa.dot.gov/lowstrength/index.htm (http://primis.phmsa.dot.gov/lowstrength/index.htm).
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34. IM and operational procedures and practices were issues in the Pacific Gas & Electric (PG&E) San Bruno, CA, rupture in September 2010 and the Enbridge Marshall, MI, rupture in July 2010.
35. PHMSA issued Advisory Bulletins ADB-11-01 and ADB-2012-10 to operators regarding IM meaningful metrics and assessments on January 10, 2011, and December 5, 2012, respectively, which can be reviewed at: http://phmsa.dot.gov/pipeline/regs/advisory-bulletin (http://phmsa.dot.gov/pipeline/regs/advisory-bulletin).
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36. PHMSA issued Advisory Bulletin, ADB-12-06, concerning documentation of MAOP on May 7, 2012, which can be reviewed at: http://phmsa.dot.gov/pipeline/regs/advisory-bulletin (http://phmsa.dot.gov/pipeline/regs/advisory-bulletin).
37. Also note PHMSA's Advisory Bulletin titled "Deactivation of Threats," issued March 16, 2017 (82 FR 14106 (/citation/82-FR-14106)).
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38. PHMSA requests further substantiation of this estimate. In extrapolating the national data, PHMSA estimates this number is the cost incurred for all pipe replacement projects on transmission lines, not just those projects triggered in response to class location changes.
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39. PHMSA notes that ILI and in-the-ditch evaluation technologies for crack identification are under development and could further be improved.
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40. 68 FR 69778 (/citation/68-FR-69778); Pipeline Safety: Pipeline Integrity Management in High Consequence Areas (Gas Transmission Pipelines).
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41. PHMSA has met with operators constructing new pipelines on several occasions to discuss issues found during inspection. To reach out to all members of the pipeline industry, PHMSA hosted a public workshop in collaboration with our State partners, the Federal Energy Regulatory Commission (FERC) and Canada's National Energy Board (NEB) in April 2009. The objective of the workshop was to inform the public, alert the industry, review lessons learned from inspections, and to improve new pipeline construction practices prior to the 2009 construction season. This website makes available information discussed at the workshop and provides a forum in which to share additional information about pipeline construction concerns. This workshop focused on transmission pipeline construction. http://primis.phmsa.dot.gov/construction/index.htm (http://primis.phmsa.dot.gov/construction/index.htm).
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establish the pipelines operating pressure, anomaly repair criteria, safety surveys for leaks, and ROW encroachments, etc. When Class locations change (from additional dwellings for human occupancy) from one-level to a higher level there are cut-off levels that may require a different design factor, pressure test, or maintenance criteria. For pipe to be replaced the class location change would have to be from a Class 1 to 3 or Class 2 to 4, which is a large increase in dwellings along the pipeline.
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43. Sections involving class location requirements include §§ 192.5, 192.609, 192.611, 192.619 and 192.620.
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44. Section 192.933 has anomaly repair requirements based upon a predicted failure pressure being less than or equal to 1.1 times the MAOP.
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45. See OMB Memorandum M-17-21, "Guidance Implementing Executive Order 13771, (/executive-order/13771) Titled 'Reducing Regulation and Controlling Regulatory Costs,'" (April 5, 2017).
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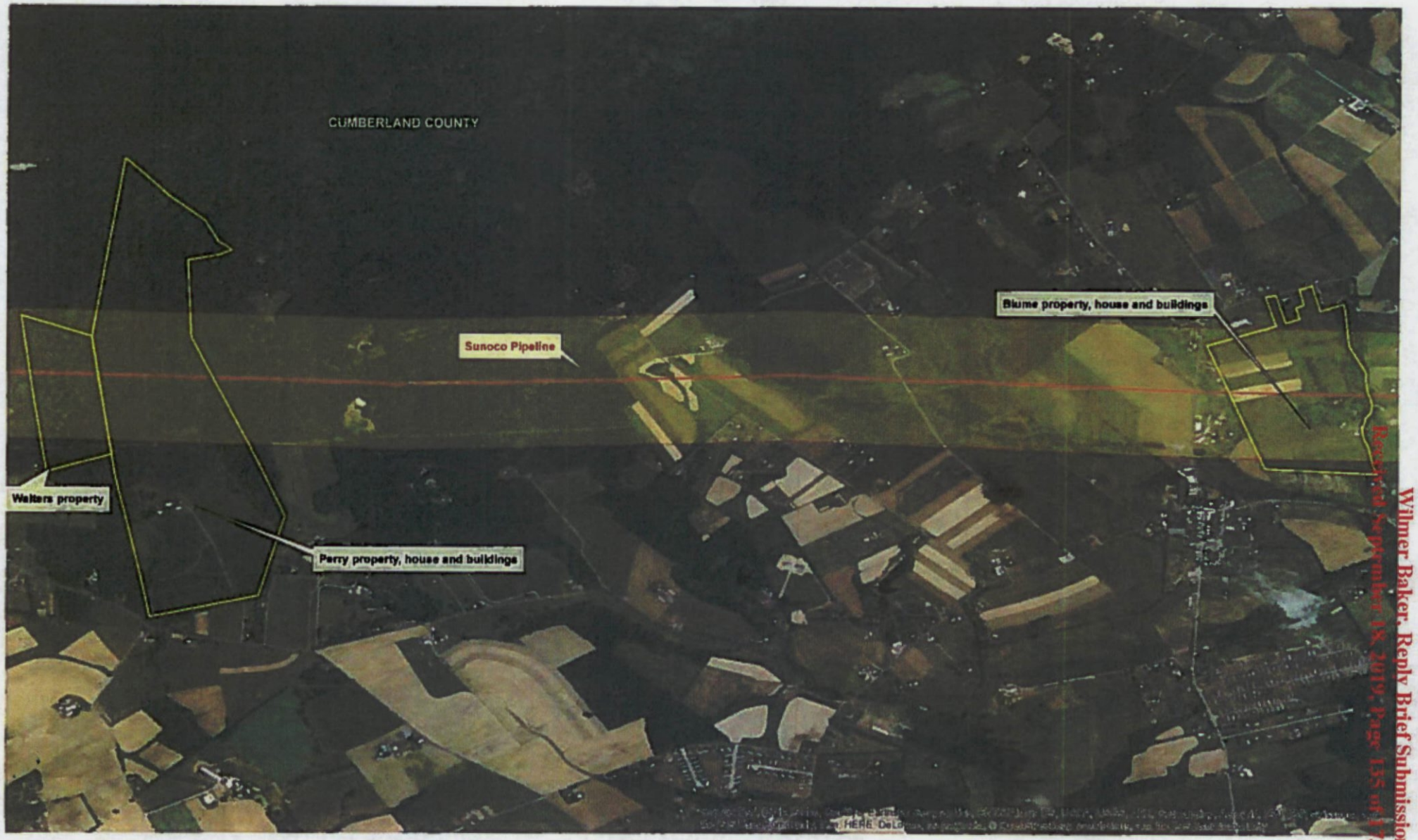

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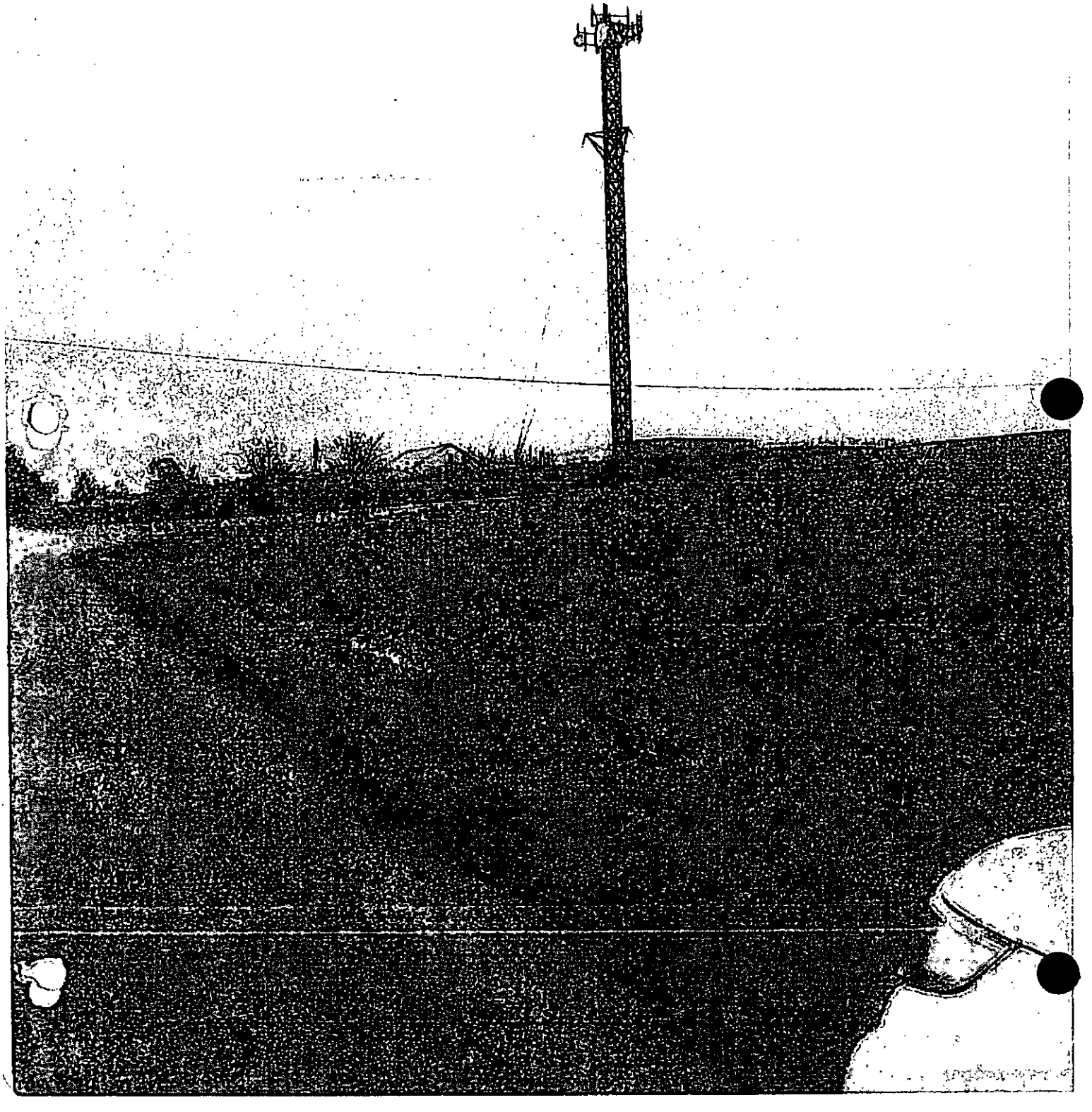

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Sunoco's Mariner East 2 pipeline construction on Pennell Road in Middletown Township. (Emma Lee/WHYY)

MARCH 21, 2019 | 06:06 PM

Higher operating pressure prompts new safety concerns over Sunoco's Mariner East 2X pipeline

Pipeline safety advocates worry the pressure on the 16-inch Mariner East 2x would pose greater dangers

Susan Phillips ⊕

Reid Frazier / The Allegheny Front

A tree clearing crew member on a property in Huntingdon County along the Mariner East pipeline path.

Wilmer Baker, Reply Brief Submission
Received September 18, 2019, Page 140 of 210

Pipeline opponents are raising new concerns about the safety of Energy Transfer/Sunoco Logistics' Mariner East 2x natural gas liquids line, which the company says will have a maximum operating pressure much higher than that of the Mariner East 1 and 2 lines.

The pressure on the Mariner East 2x had previously been reported in public documents as equal to the pressure of parallel Mariner East 2, which uses the same right-of-way. A pipeline's "Maximum Allowable Operating Pressure," < http://www.puc.state.pa.us/transport/gassafe/pdf/Gas_Safety_Seminar_2C PPT-PUC_MAOP_Ver.pdf> or MAOP, is set by the Department of Transportation < https://www.federalregister.gov/documents/2012/05/07/2012-10866/pipeline-safety-verification-of-records> and, for safety reasons, is lower than what the design characteristics of the pipe can withstand.

In permit applications filed in 2016 with the Pennsylvania Department of Environmental Protection < http://files.dep.state.pa.us/RegionalResources/SWRO/SWROPortalFiles/C %20Project%20Descr/Penn%20Pipeline%20Project%20Description_032: , and with the Delaware River Basin Commission in 2015, Sunoco stated the MAOP for Mariner East 2 and 2x would be 1480 psig, or pounds per square inch gauge.

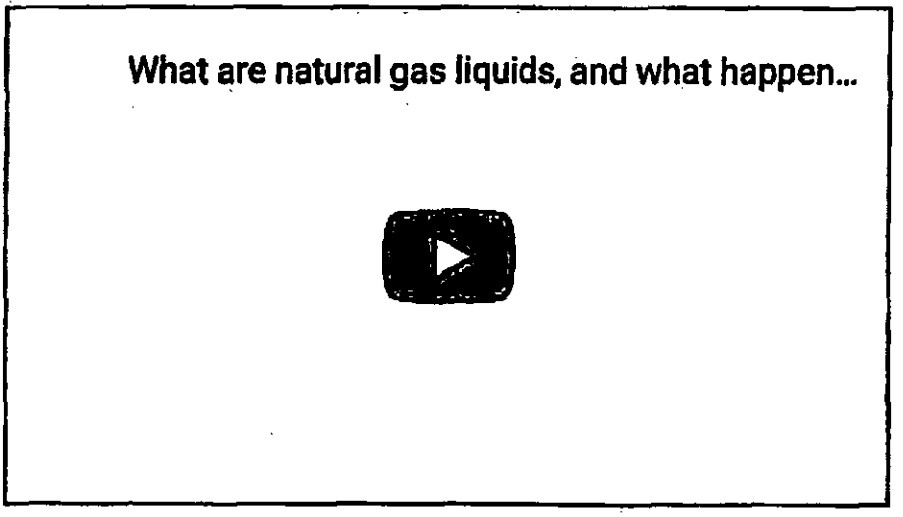
But a footnote in recent reports filed with the Pennsylvania Department of Environmental Protection point to a much higher number: 2100 psig.

Clean Air Council attorney Alex Bomstein, who says he discovered the difference while analyzing Sunoco's new horizontal directional drilling plans filed with DEP, said a risk assessment conducted of the pipeline project was based on a lower pressure.

"Every risk assessment done on Mariner East has used the 1480 psig figure in calculating destructive potential, because that's what Sunoco has always represented to the public and to regulators," Bomstein said.

Bomstein's organization hired Quest Consultants to do a risk assessment < https://stateimpact.npr.org/pennsylvania/2018/08/29/risk-assessment-quantifies-mariner-east-hazards-for-residents-in-two-counties/> on the line. Quest's senior engineer Jeff Marx, who conducted the assessment, says the risks are greater with a higher pressure.

"Something up in the 2100 psi range would be a significant increase and will increase the hazard because the release rate of material is largely driven by pressure," Marx said.



Bomstein says air emissions are also impacted by the pressure, and in air permits filed with DEP < http://files.dep.state.pa.us/RegionalResources/SCRO/SCROPortalFiles/Co%20Mount%20Union%20Pump%20Station%20%E2%80%93%209-21-17%20DEP%20Addendum%20Memo%20and%20Revised%20Draft%20S

Only%20Operating%20Permit%2031-03036.pdf> for pumping stations, the pressure is reported by Sunoco as 1480 psig.

"If the pressure were 2100, that would increase emissions, meaning Sunoco's estimates would be off, meaning DEP's determination around air permitting of this would also be legally erroneous," Bomstein said.

Sunoco spokeswoman Lisa Dillinger confirmed in an email that the maximum operating pressure of the Mariner East 2x is 2100, but insists that is not a change.

"The pipe being used to construct ME2X is designed to safely accommodate a MOP up to 2100 psig," Dillinger wrote. "Its valves, wall thickness, grade, and hydrostatic testing < https://primis.phmsa.dot.gov/comm/factsheets/fshydrostatictesting.htm> are all designed to that pressure. This is recognized in our documentation with the DEP, PUC and PHMSA. We tested the pipe at approximately 2600 psig – way above the design pressure and operating pressures."

In a review of public documents submitted to the DEP as part of their permit applications in 2016 and to the Delaware River Basin Commission in 2015, StateImpact Pennsylvania could find no reference to the 16-inch Mariner East 2x line operating at 2100 psig. The only references are from the footnotes in recent drawings submitted to DEP as part of the revised construction plans involving horizontal directional drilling. The company was forced to revise its HDD plans after dozens of drilling mud spills resulted in DEP penalties and a lawsuit by Clean Air Council.

"Our greatest concern is that Sunoco has put into the ground pipeline that has not been properly tested," Bomstein said. "And if it can't withstand those pressures, that means there's a great and needless risk of rupture and explosion."

Sunoco's Dillinger said the currently operating Mariner East 2 pipeline is designed for 1480 psig and the line was tested at about 2160 psig. The parallel Mariner East 2x remains under construction, as do sections of the Mariner East 2. Although the Mariner East 2 is operational, construction accidents and delays forced the company to use an older section of pipe as a workaround while work on the rest of the line continues.

The Mariner East pipeline project includes three lines that carry natural gas liquids from eastern Ohio and western Pennsylvania about 350 miles across the state to Marcus Hook, Delaware County. The Pennsylvania Public Utility Commission shut down the Mariner East 1 line earlier this year after a sinkhole exposed the pipe in Chester County.

A spokesman for the Pipeline and Hazardous Materials Safety Administration said the agency is unaware that the maximum operating pressure on the Mariner 2x is now 2100 psig.

The Pennsylvania Public Utility Commission's Pipeline Safety Division, Bureau of Investigation and Enforcement said it cannot discuss the specific pressures of pipelines because they "are confidential security information." The PUC said federal safety regulations do not change based on the maximum operating pressure of a line.

A spokesperson for the DEP said pipeline safety and operations are not a part of their jurisdiction.

Pipeline safety consultant Richard Kuprewicz of Accufacts, which conducted a safety review of the lines running through West Goshen Township < https://stateimpact.npr.org/pennsylvania/2017/01/16/consultants-report-endorses-safety-of-mariner-east-2-critics-unmoved/> , said that historically, the pressure limits for natural gas liquids pipelines is at 1440 or 1480 psig.

A pressure of 2100 psig, Kuprewicz says, is "in a whole different ball game." He says components like valves and flanges may not be adequate for such a high maximum operating pressure.

"All I can say is federal regulations wouldn't prevent you from running it at 2100, but you would be out of your mind," Kuprewicz said.

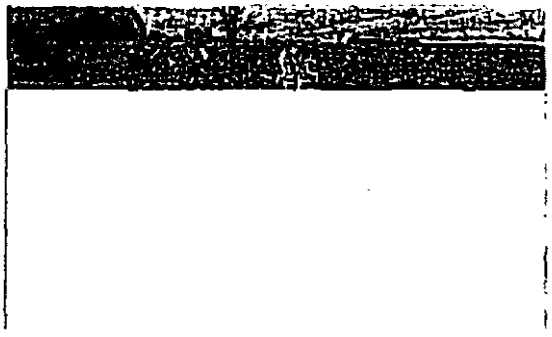
Both Kuprewicz and Marx said failure at a higher pressure translates to greater safety risks.

Kuprewicz says his review of Sunoco's practices for the lines running through, or close to, West Goshen Township show the company exceeded federal safety standards with regard to the construction and operation of the Mariner East lines. He said he has not seen detailed information about the Mariner East 2x line.

EXPLAINERS

Delaware Watershed

<
https://stateimpact.npr.org/pennsylvania/tag/delaware-watershed/>



CORPORATION

STUPP JOB NUMBER 6764-15 REVISION: 0 HEAT #: M06454

12555 Ranaldson Rd, Baton Rouge, LA

CUSTOMER

Sunoco Logistics Partners, LP
CUSTOMER ORDER **SXL4500055301**

ORDER DESCRIPTION

HFW / Fine Grained Steel / Aluminum Killed / Continuously Cast / Melted and Manufactured in U.S.A.

OD	20.000 Inches
WALL	0.380 Inch
GRADE	API5L-X65M-PSL2
SPEC	API-5L
VERSION	45th December 2012
QUANTITY	
STEEL PO	6764-15

TEST PARAMETERS

HYDROSTATIC PRESSURE	HYDROSTATIC DURATION	ULTRASONIC DRILL HOLE	ULTRASONIC NOTCH	SEAM ANNEALED TEMP MINIMUM
2,480 PSI	15 Seconds	0.125 In	N10	1,650° F

FRACTURE TOUGHNESS CRITERIA

CVN-46-32F (35 ft.lb. minimum per 3/4-size).

Flattening tests acceptable per specifications.

CHEMICAL FORMULA

CE=C+Mn/6+Cr/5+Mo/5+V/5+Ni/15+Cu/15

Pcm=C+Si/30+Mn/20+Cu/20+Cr/20+Ni/60+Mo/15+V/10+5B

CE Max=0.42% ; Pcm Max=21% ; Pipe manufactured, sampled, tested, and inspected in accordance with the specification(s) and meets requirements. Steel cast and coils rolled at US Steel, Gary, IN. Pipe manufactured at Stupp Corporation, Baton Rouge, LA.

TENSILE TESTS (in PSI) SPECIMEN SIZE 12.0 In X 2" (1.5" x t)

COIL	PIPE	TEST TYPE	YIELD	TENSILE	ELONG%	YT Ratio
2764	5	PIPE LONGITUDINAL	78,300	91,700	31	0.85
2764	5	TRANS PIPE	67,300	93,500	31	0.72
2764	5	TRANS PIPE WELD		91,700		
2766	5	TRANS PIPE	73,200	91,900	29	0.80
2766	5	TRANS PIPE WELD		91,600		

DROP WEIGHT TESTS TRANSVERSE FULL SIZE

COIL	PIPE	LOCATION	TEMP	SHEAR PERCENT 1	2	AVG
2764	5	BODY	32°F	100	100	100.0

CHARPY TESTS

COIL	PIPE	ORIENTATION	LOCATION	SIZE	TEMP	SHEAR PERCENT 1	2	3	AVG	ENERGY IN FT-POUNDS 1	2	3	AVG
2764	5	TRANSVERSE	BODY	3/4	32°F	100	100	100	100	134	117	158	136.3
2764	5	TRANSVERSE	WELD	3/4	32°F	100	100	100	100	116	158	228	167.3
2766	5	TRANSVERSE	BODY	3/4	32°F	100	100	100	100	207	189	186	194.0
2766	5	TRANSVERSE	WELD	3/4	32°F	100	100	100	100	198	219	206	207.7
2952	5	TRANSVERSE	BODY	3/4	32°F	100	100	100	100	227	178	217	207.3
2952	5	TRANSVERSE	WELD	3/4	32°F	100	100	100	100	224	208	206	212.7

HARDNESS SURVEY

COIL	PIPE	TEST TYPE	BM	HAZ	WELD	HAZ	BM 2
2764	5	VICKERS 10 KGF	211	177	178	178	210
2764	5	VICKERS 10 KGF	218	176	190	184	220
2764	5	VICKERS 10 KGF	212	182	168	194	226

CHEMICAL TESTS

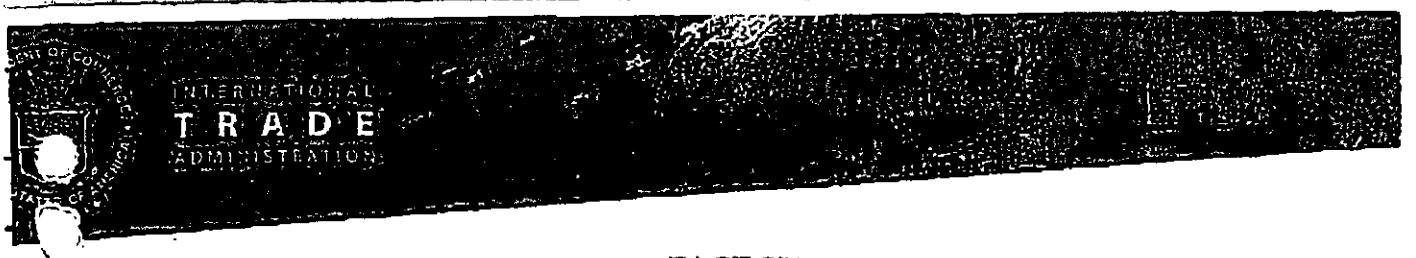
COIL	PIPE	CE	Pcm	TYPE	C	Mn	P	S	Si	Al	Cb	V	Ti	N	Cr	Mo	Cu	Ni	B	Ca	Sn
		0.273	0.124	LADLE	0.050	1.270	0.016	0.004	0.220	0.038	0.069	0.001	0.015	0.004	0.040	0.004	0.020	0.010	0.0001	0.0020	0.005
2764	5	0.279	0.121	PROD	0.043	1.350	0.016	0.001	0.218	0.038	0.069	0.003	0.015	0.007	0.039	0.004	0.021	0.009	0.0000	0.0019	0.004
2766	5	0.283	0.127	PROD	0.049	1.340	0.016	0.003	0.223	0.037	0.068	0.002	0.015	0.007	0.038	0.004	0.022	0.010	0.0000	0.0023	0.004

The undersigned, on behalf of Stupp Corporation, hereby certifies that the above materials have been inspected and tested in accordance with the methods prescribed in the applicable specifications, and the results of such inspection and ... are shown above. In determining properties or characteristics for which no methods of inspection or testing are ...cribed by said specification, the standard mill inspection and testing practices of Stupp Corporation have been ...plied. Unless it appears otherwise in the results of such inspection and tests shown above, the undersigned employee ...pp Corporation believes that said materials conform to said specification.

Jeff Jones — Stupp Corporation, Authorized Insp. Rep — 10/9/2015

Appr: TH

Robert Stinnett — Inspector — 10/22/2015



FACT SHEET

Commerce Finds Dumping and Countervailable Subsidization of Imports of Large Diameter Welded Pipe from Canada, Greece, Korea, and Turkey

- On February 21, 2019, the Department of Commerce (Commerce) announced its affirmative final determinations in the antidumping duty (AD) and countervailing duty (CVD) investigations of imports of large diameter welded pipe from Canada (AD only), Greece (AD only), Korea, and Turkey.

- The AD and CVD laws provide U.S. businesses and workers with a transparent, quasi-judicial, and internationally accepted mechanism to seek relief from the market-distorting effects caused by injurious dumping and subsidization of imports into the United States, establishing an opportunity to compete on a level playing field.

- For the purpose of an AD investigation, dumping occurs when a foreign company sells a product in the United States at less than its fair value. For the purpose of a CVD investigation, a countervailable subsidy is financial assistance from foreign governments that benefits the production of goods from foreign companies and is limited to specific enterprises or industries, or is contingent either upon export performance or upon the use of domestic goods over imported goods.

- In the Canada investigation, Commerce assigned a dumping rate of 12.32 percent for mandatory respondent Evraz Inc. NA. Commerce assigned a dumping rate of 12.32 percent to all other producers and exporters of large diameter welded pipe from Canada.

- In the Greece investigation, Commerce assigned a dumping rate of 9.96 percent for mandatory respondent Corinth Pipeworks Pipe Industry S.A. Commerce assigned a dumping rate of 9.96 percent to all other producers and exporters of large diameter welded pipe from Greece.

- In the Korea investigation, Commerce assigned a dumping rate of 14.97 percent for mandatory respondent Hyundai RB Co., Ltd.. Commerce assigned a dumping rate of 7.03 percent for mandatory respondent SeAH Steel Corporation. Commerce assigned a dumping rate of 20.39 percent for mandatory respondent Samkang M&T Co., Ltd., based on adverse facts available. Commerce assigned a dumping rate of 9.30 percent to all other producers and exporters of large diameter welded pipe from Korea.

- In the Turkey investigation, Commerce assigned a dumping rate of 4.55 percent for mandatory respondent Borusan Mannesmann Boru Sanayi ve Ticaret A.S. Commerce assigned a dumping rate of 5.05 percent for mandatory respondent HDM Celik Boru Sanayi ve Ticaret A.S. Commerce assigned a dumping rate of 4.68 percent to all other producers and exporters of large diameter welded pipe from Turkey.

- In the Korea investigation, Commerce has calculated a subsidy rate of 0.01 percent (*de minimis*) for mandatory respondent Husteel Co., Ltd., 0.44 percent (*de minimis*) for mandatory respondent Hyundai Steel Company and 27.42 percent for mandatory respondent SeAH Steel Corporation based on adverse facts available. Commerce calculated a rate of 9.29 percent for all other Korean producers and exporters.

- In the Turkey investigation, Commerce has calculated a subsidy rate of 3.72 percent for mandatory respondent HDM Celik Boru Sanayi ve Ticaret A.S. and 0.92 percent (*de minimis*) for mandatory

respondent Borusan Mannesmann Boru Sanayi ve Ticaret A.S. Commerce calculated a rate of 3.72 percent for all other Turkish producers and exporters.

- Upon publication of the final affirmative AD determinations, Commerce will instruct U.S. Customs and Border Protection (CBP) to collect AD cash deposits equal to the applicable final weighted-average dumping rates. Further, as a result of the affirmative final CVD determinations, if the U.S. International Trade Commission (ITC) makes affirmative injury determinations, Commerce will instruct CBP to resume collection of CVD cash deposits equal to the applicable above-*de minimis* subsidy rates.

- The petitioners are American Cast Iron Pipe Company (Birmingham, AL), Berg Steel Pipe Corp. (Panama City, FL), Berg Spiral Pipe Corp. (Mobile, AL), Dura-Bond Industries (Steelton, PA), Skyline Steel (Parsippany, NJ), and Stupp Corporation (Baton Rouge, LA).

- The merchandise covered by the **Canada, Greece, Korea, and Turkey** investigations is welded carbon and alloy steel pipe (including stainless steel pipe), more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Large diameter welded pipe may be used to transport oil, gas, slurry, steam, or other fluids, liquids, or gases. It may also be used for structural purposes, including, but not limited to, piling. Specifically, not included is large diameter welded pipe produced only to specifications of the American Water Works Association (AWWA) for water and sewage pipe.

  Large diameter welded pipe used to transport oil, gas, or natural gas liquids is normally produced to the American Petroleum Institute (API) specification 5L. Large diameter welded pipe may also be produced to American Society for Testing and Materials (ASTM) standards A500, A252, or A53, or other relevant domestic specifications, grades and/or standards. Large diameter welded pipe can be produced to comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards, or can be non-graded material. All pipe meeting the physical description set forth above is covered by the scope of these investigations, whether or not produced according to a particular standard.

  Subject merchandise also includes large diameter welded pipe that has been further processed in a third country, including but not limited to coating, painting, notching, beveling, cutting, punching, welding, or any other processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the country of manufacture of the in-scope large diameter welded pipe.

  Excluded from the scope of the **Korea AD** and **Turkey AD** investigations are any products covered by the existing antidumping duty orders on welded line pipe from Korea and Turkey, respectively. *See* Welded Line Pipe from the Republic of Korea and the Republic of Turkey: Antidumping Duty Orders, 80 FR 75056 (December 1, 2015). Also excluded from the scope of the **Korea AD** investigation are any products covered by the existing antidumping order on welded ASTM A-312 stainless steel pipe from Korea. *See Welded ASTM A-312 Stainless Steel Pipe from South Korea: Antidumping Duty Order*, 57 FR 62300 (December 30, 1992). Also excluded from the scope of the **Turkey CVD** investigation are any products covered by the existing countervailing duty order on welded line pipe from the Republic of Turkey. *See Welded Line Pipe from the Republic of Turkey: Countervailing Duty Order*, 80 FR 75054 (December 1, 2015).

  The large diameter welded pipe that is subject to these investigations is currently classifiable in Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, 7305.19.5000, 7305.31.4000, 7305.31.6010, 7305.31.6090, 7305.39.1000 and 7305.39.5000. While the HTSUS

subheadings are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

- In 2017, imports of large diameter welded pipe from Canada, Greece, Korea, and Turkey were valued at an estimated $179.9 million, $10.7 million, $150.9 million, and $57.3 million, respectively.

- The Final Decision Memoranda are on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov*, and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. Please refer to AD case numbers A-122-863 for Canada, A-484-803 for Greece, A-580-897 for Korea, and A-489-833 for Turkey and CVD case numbers C-580-898 for Korea and C-489-834 for Turkey.

NEXT STEPS

- The ITC is scheduled to make its final determinations on or about April 5, 2019.

- If the ITC makes affirmative final determinations that imports of large diameter welded pipe from Canada, Greece, Korea, and/or Turkey materially injure, or threaten material injury to, the domestic industry, Commerce will issue AD and CVD orders. If the ITC makes negative determinations of injury, the investigations will be terminated.

FINAL DUMPING RATES:

COUNTRY	EXPORTER/PRODUCER	DUMPING RATES
Canada	Evraz Inc. NA	12.32%
	All Others	12.32%

COUNTRY	EXPORTER/PRODUCER	DUMPING RATES
Greece	Corinth Pipeworks Pipe Industry S.A.	9.96%
	All Others	9.96%

COUNTRY	EXPORTER/PRODUCER	DUMPING RATES	CASH DEPOSIT
Korea	Hyundai RB Co., Ltd.	14.97%	12.86%
	SeAH Steel Corporation	7.03%	4.92%
	Samkang M&T Co., Ltd.	20.39%	18.28%
	All Others	9.30%	7.19%

COUNTRY	EXPORTER/PRODUCER	DUMPING RATES	CASH DEPOSIT
Turkey	Borusan Mannesmann Boru Sanayi ve Ticaret A.S.	4.55%	4.55%
	HDM Celik Boru Sanayi ve Ticaret A.S.	5.05%	4.05%
	All Others	4.68%	3.68%

*Rates are adjusted for export subsidies.

FINAL SUBSIDY RATES

COUNTRY	EXPORTER/PRODUCER	SUBSIDY RATES
Korea	Husteel Co., Ltd.	0.01% (*de minimis*)
	Hyundai Steel Company	0.44% (*de minimis*)
	SeAH Steel Corporation	27.42%
	All Others	9.29%

COUNTRY	EXPORTER/PRODUCER	SUBSIDY RATE
Turkey	Borusan Mannesmann Boru Sanayi ve Ticaret A.S.	0.92% (*de minimis*)
	HDM Celik Boru Sanayi ve Ticaret A.S.	3.72%
	All Others	3.72%

* *de minimis* = less than 1% for developed countries, less than 2% for developing countries.

CASE CALENDAR:

EVENT	CVD	AD
Petitions Filed	January 17, 2018	January 17, 2018
DOC Initiation Date	February 9, 2018	February 9, 2018
ITC Preliminary Determinations	March 6, 2018	March 6, 2018
DOC Preliminary Determinations	June 29, 2018	August 27, 2018
DOC Final Determinations	February 19, 2019	February 19, 2019
ITC Final Determinations	April 5, 2019	April 5, 2019
Issuance of Orders*	April 12, 2019	April 12, 2019

NOTE: Commerce preliminary and final determination deadlines are governed by statute. For AD investigations, the deadlines are set forth in sections 733(b) and 735(a)(1) of the Tariff Act of 1930, as amended (the Act). For CVD investigations, the deadlines are set forth in sections 703(b) and 705(a) of the Act. These deadlines may be extended under certain circumstances.

*This will take place only in the event of affirmative final determinations from Commerce and the ITC.

IMPORT STATISTICS

CANADA	2015	2016	2017
Volume (metric tons)	306,779	61,385	158,039
Value (USD)	413,431,361	65,951,912	179,945,124

GREECE	2015	2016	2017
Volume (metric tons)	182,657	82,375	12,568
Value (USD)	197,195,473	69,974,420	10,708,760

KOREA	2015	2016	2017
Volume (metric tons)	227,916	174,452	184,866
Value (USD)	187,218,815	150,306,695	150,872,938

TURKEY	2015	2016	2017
Volume (metric tons)	115,629	108,546	56,690
Value (USD)	136,213,672	116,081,404	57,274,624

Source: U.S. Census Bureau, accessed through Global Trade Atlas. (HTSUS 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, 7305.19.5000, 7305.31.4000, 7305.31.6010, 7305.31.6090, 7305.39.1000, and 7305.39.5000.) Note: Currently there are AD and CVD orders on welded line pipe from Turkey and an AD order on welded line pipe from Korea. These three orders cover welded line pipe not more than 24 inches in nominal outside diameter. The above import statistics include HTSUS subheadings that may also be covered under the AD and CVD orders; therefore, the above import statistics for imports of large diameter welded pipe from Korea and Turkey may be overstated.

CORINTH PIPEWORKS S.A. PIPE INDUSTRY AND STEEL CONSTR.	ΣΥΣΤΗΜΑ ΔΙΑΧΕΙΡΙΣΗΣ ΠΟΙΟΤΗΤΑΣ (Quality Management System)	CPW-T-HS-190.0.2 Rev.1 A/A(S/N): 5389 HM/NIA(Date): 9/3/2015

ΔΕΛΤΙΟ ΧΗΜΙΚΩΝ ΑΝΑΛΥΣΕΩΝ (CHEMICAL ANALYSIS REPORT)

Πελάτης/Customer	KINDER MORGAN CO2 COMPANY L.P. 1001 LOUISIANA SUITE 1000 HOUSTON TEXAS 77002 Purchase Order No. 4268582-0-CONT CPW AMERICA Co Purchase Order No. 31-1187 Rev6 ITEM 3	Εντολή Παραγωγής/PSN	F166/2
Προδιαγραφή/Spec	Longitudinally High Frequency Induction Welded Steel Line Pipe ERW/HFI according to API 5L 45th Edition PSL2, ITP_60_14_HFW_REV.1. Pipes inside bare and outside coated with FBE according to ITP_62_14_ARO_REV.1.	Οδηγία/Procedure	CPW-T-HS-190.0
Διάσταση/Size	16.000" X 0.438"	Ποιότητα/Grade	X70M PSL2

Rm Coil No	Coil No	Heat No	C% X 100	Mn% X 100	P% X 1000	S% X 1000	Si% X 100	Cr% X 100	Ni% X 100	Mo% X 100	Cu% X 100	Ti% X 100	Nb% X 1000	V% X 1000	Al% X 1000	Sn% X 1000	Ca% X 1000	N% X 1000	B% X 1000	PCM% X 100	CEIIW% X 100	Nb+V +Ti%	Cr+Mo +Ni +Cu%	Al/N	Sample from	Pipe Counter per Heat
Spec Limits		min																								
		max	12,00	200,00	25,00	15,00	45,00	50,00	50,00	50,00	50,00			80,00				10,00		20,00	40,00	0,15				
8	8325051	730418349	5,20	154,20	13,40	1,60	19,50	2,30	2,00	0,80	1,30	1,87	59,00	1,00	27,80	1,00	1,99	2,40	0,10	13,80	31,70	0,077	0,064	11,50	691619	9
8	8458075	730427736	5,70	153,40	14,60	1,10	20,80	1,70	1,70	0,30	0,70	1,80	55,00	1,00	34,30	1,00	2,16	3,40	0,10	14,10	31,30	0,074	0,045	10,09	HEAT	
8	8458075	730427736	5,70	151,10	14,90	1,00	20,90	1,70	1,80	0,40	0,70	1,81	56,00	1,00	33,80	1,00	1,94	3,60	0,10	14,10	31,40	0,075	0,044	9,86	1171617	7169
8	8458075	730427736	5,50	150,40	14,50	1,00	20,90	1,70	1,60	0,40	0,70	1,80	55,00	1,00	33,80	1,00	1,93	3,30	0,10	13,90	31,20	0,074	0,044	10,24	1181618	8
9	8445084	730419846	5,70	153,90	13,70	2,30	19,80	1,60	1,90	0,51	0,90	1,65	54,00	1,00	31,40	1,00	2,24	2,90	0,10	14,10	31,50	0,072	0,049	12,56	HEAT	
9	8445084	730419846	5,70	151,40	10,90	1,90	20,10	1,80	1,90	0,50	0,90	1,66	56,00	1,00	31,10	1,00	1,95	3,50	0,10	14,10	31,60	0,073	0,049	8,88	1321917	7169
9	8445084	730419846	5,40	142,60	9,80	1,80	19,80	1,60	1,90	0,50	0,90	1,59	51,00	1,00	31,20	1,00	2,12	2,10	0,10	13,70	30,80	0,066	0,049	14,86	1331918	8169
10	8251144	730427405	6,00	153,20	14,60	1,60	19,00	2,40	1,50	0,29	0,90	2,13	60,00	1,00	29,60	1,00	1,94	5,20	0,10	14,50	32,30	0,082	0,051	5,59	HEAT	
10	8251144	730427405	6,00	153,70	14,70	1,50	19,20	2,40	1,50	0,30	0,90	2,12	60,00	1,00	29,70	1,00	1,87	4,90	0,10	14,50	32,30	0,082	0,051	6,05	1461617	7169
10	8251144	730427405	5,90	153,50	14,60	1,40	19,40	2,40	1,50	0,30	0,90	2,13	60,00	1,00	30,00	1,00	1,84	5,00	0,10	14,40	32,20	0,082	0,051	6,00	1471618	8169
12	8251122	730419167	6,00	152,10	15,10	2,10	20,30	2,20	1,40	0,13	0,80	1,86	58,00	1,00	30,60	11,00	1,94	5,00	0,10	14,40	32,00	0,076	0,045	6,18	HEAT	
12	8251122	730419167	5,90	151,20	14,90	1,80	20,50	2,30	1,50	0,10	0,90	1,83	57,00	1,00	31,10	11,00	1,91	5,10	0,10	14,30	31,70	0,074	0,045	6,10	1751216	6169
12	8251122	730419167	5,60	152,10	14,90	2,10	20,60	2,30	1,50	0,20	0,90	1,85	58,00	1,00	31,50	11,00	1,94	4,70	0,10	14,30	31,80	0,076	0,049	6,60	1761217	7169
13	8307088	730419344	6,00	152,60	14,40	1,40	20,80	1,60	1,50	0,47	0,70	1,76	55,00	1,00	30,30	1,00	1,65	4,60	0,10	14,50	32,00	0,074	0,045	7,89	HEAT	

Laboratory Assistant

Laboratory Supervisor

ACES-GQS
S. [illegible]
Third Part Inspection

Client's Representative 2\8

Wilmer Baker, Reply Brief Submission
Received September 9, 2020
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ΔΕΛΤΙΟ ΧΗΜΙΚΩΝ ΑΝΑΛΥΣΕΩΝ (CHEMICAL ANALYSIS REPORT)

Πελάτης/Customer	KINDER MORGAN CO2 COMPANY L.P. 1001 LOUISIANA SUITE 1000 HOUSTON TEXAS 77002 Purchase Order No. 4268582-0-CONT CPW AMERICA Co Purchase Order No. 31-1187 Rev6 ITEM 3	Εντολή Παραγωγής/PSN	F166/2
Προδιαγραφή/Spec	Longitudinally High Frequency Induction Welded Steel Line Pipe ERW/HFI according to API 5L 45th Edition PSL2, ITP_60_14_HFW_REV.1. Pipes inside bare and outside coated with FBE according to ITP_62_14_ARO_REV.1.	Οδηγία/Procedure	CPW-T-HS-190.0
Διάσταση/Size	16.000" X 0.438"	Ποιότητα/Grade	X70M PSL2

Run Coil No	Coil No	Heat No	C% X 100	Mn% X 100	P% X 1000	S% X 1000	Si% X 100	Cr% X 100	Ni% X 100	Mo% X 100	Cu% X 100	Ti% X 100	Nb% X 1000	V% X 1000	Al% X 1000	Sn% X 1000	Ca% X 1000	N% X 1000	B% X 1000	PCM% X 100	IIW% X 100	Nb+V +Ti%	Cr+Mo +Ni +Cu%	Al/N	Sample from	Pipe Coun per H
Spec Limits		min																								
		max	12,00	200,00	25,00	15,00	45,00	50,00	50,00	50,00	50,00			60,00				10,00		20,00	40,00	0,15				
1	8458087	730419644	5,80	151,60	13,40	2,00	21,30	2,00	2,00	0,10	0,60	1,87	58,00	1,00	20,30	1,00	1,32	2,90	0,10	14,30	31,70	0,078	0,040	9,07	HEAT	1
1	8458087	730419644	5,80	151,50	13,00	1,60	21,20	2,10	2,00	0,10	0,60	1,85	58,00	1,00	26,40	1,00	1,36	2,70	0,10	14,20	31,60	0,078	0,050	9,78	121112	12
1	8458087	730419644	5,70	151,50	13,00	1,70	21,10	2,00	1,90	0,10	0,60	1,85	58,00	1,00	25,60	1,00	1,27	3,20	0,10	14,10	31,50	0,078	0,048	8,00	131113	13
2	8505114	730419556	5,60	153,60	17,00	1,60	20,00	3,10	1,80	0,69	1,00	1,69	58,00	1,00	24,20	1,00	2,18	4,10	0,10	14,20	32,10	0,078	0,065	5,90	HEAT	
2	8505114	730419556	5,50	153,30	16,70	1,40	21,00	3,10	1,80	0,60	1,00	1,68	58,00	1,00	24,40	1,00	2,13	3,50	0,10	14,10	32,00	0,078	0,065	6,97	191211	1
2	8505114	730419556	5,50	153,20	16,70	1,80	21,00	3,10	1,80	0,60	1,00	1,68	58,00	1,00	24,20	1,00	2,32	3,70	0,10	14,10	32,00	0,078	0,065	6,54	201212	2
3	8505115	730427735	5,80	148,60	11,90	2,00	19,00	1,70	1,70	0,40	0,60	1,78	57,00	1,00	36,20	2,00	1,62	3,20	0,10	14,00	30,80	0,076	0,046	11,31	HEAT	
3	8505115	730427735	5,60	148,40	11,60	1,60	19,10	1,80	1,80	0,40	0,60	1,74	56,00	1,00	30,80	2,00	1,62	3,60	0,10	13,80	30,70	0,074	0,048	12,27	401316	6
3	8505115	730427735	5,60	148,70	11,80	1,90	19,20	1,80	1,80	0,50	0,60	1,76	57,00	1,00	36,40	2,00	1,69	3,20	0,10	13,80	30,70	0,076	0,049	11,26	411317	7
5	8485093	730419556	5,70	150,20	17,50	1,40	20,60	3,20	1,70	0,48	0,80	1,62	60,00	1,00	26,10	1,00	2,45	3,50	0,10	14,20	31,70	0,077	0,062	7,46	HEAT	
5	8485093	730419556	5,60	151,00	17,60	1,30	20,70	3,20	1,70	0,50	0,80	1,64	61,00	1,00	26,00	1,00	2,47	3,70	0,10	14,30	31,80	0,078	0,062	7,03	711517	7
5	8485093	730419555	5,70	151,10	17,30	1,20	20,80	3,20	1,80	0,50	0,90	1,63	61,00	1,00	26,20	1,00	2,37	3,60	0,10	14,20	31,80	0,078	0,064	7,28	721518	8
6	8325051	730419340	5,40	153,80	13,60	2,30	19,30	2,30	1,90	0,75	1,30	1,66	59,00	1,00	28,10	1,00	2,21	1,80	0,10	14,00	31,80	0,077	0,063	15,61	HEAT	
6	8325051	730419340	5,20	154,00	13,60	1,80	19,40	2,30	2,00	0,80	1,30	1,66	59,00	1,00	28,00	1,00	2,19	2,10	0,10	13,80	31,70	0,077	0,064	13,33	871618	8

Laboratory Assistant

Laboratory Supervisor

ACES-GQS S.A.
Third Part Inspection

Client's Representative 1 \ 8

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United Steelworkers of America
AFL-CIO/CLC

Five Gateway Center
Pittsburgh, PA 15222
(412) 562-2400 • FAX (412) 562-2484

August 28, 1991

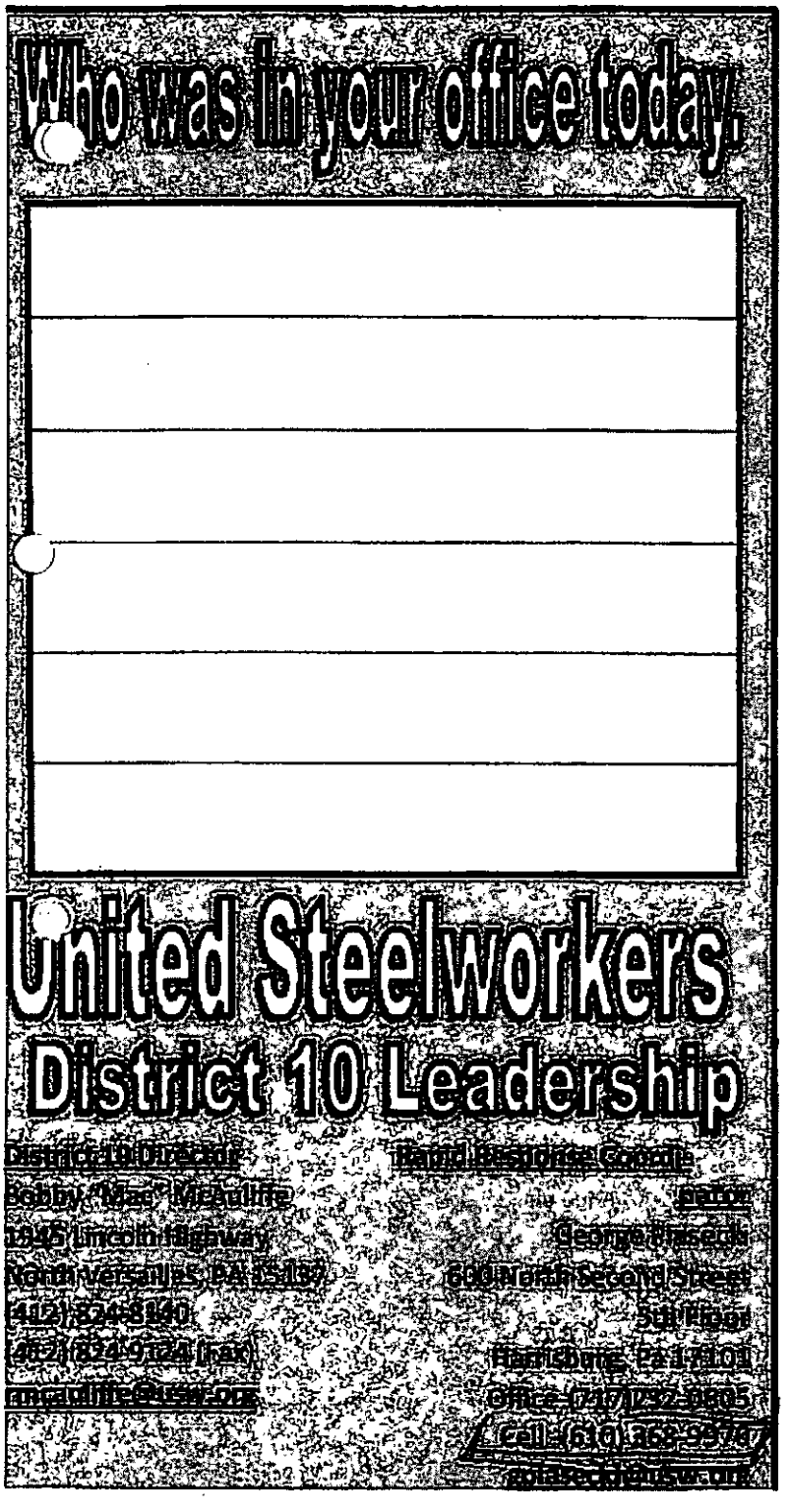
Wilmer Jay Baker
Local Union 4442, District 7
United Steelworkers of America
95 Beagle Club Road
Carlisle, PA 17013

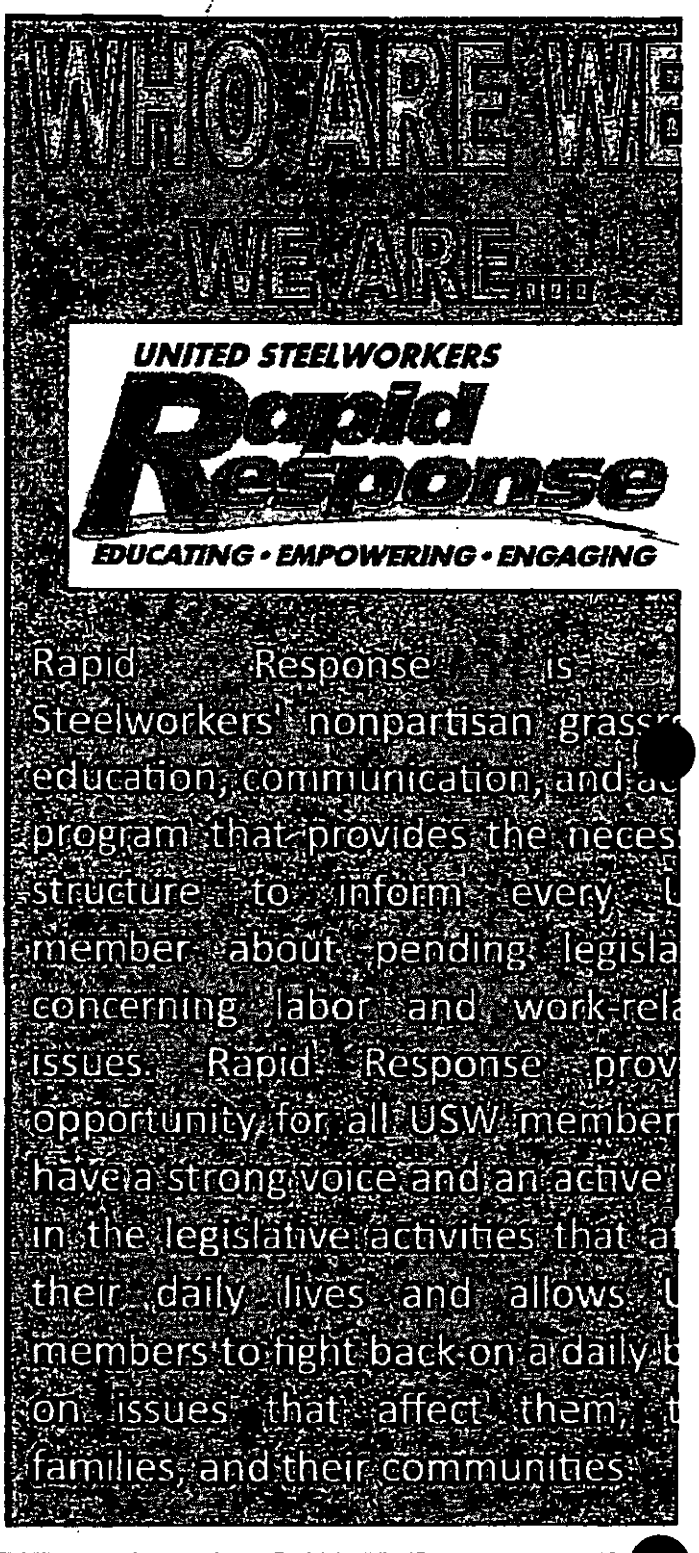
Dear Brother Baker:

This letter is to notify you that District 7 Director John Reck has recommended you for a four (4) day course in Hazardous Waste and Chemical Emergency Response training, September 29-October 4, 1991. This training is conducted under a National Institute of Environmental Health Sciences (NIEHS) grant to a consortium of the International Chemical Workers Union (ICWU), the United Steelworkers of America, the Greater Cincinnati Occupational Health Clinic and the University of Cincinnati. The course will be held at the Center for Worker Health and Safety Education in Cincinnati, Ohio. I am forwarding your name and address to the Center. You will be receiving a letter from them with all the details shortly.

The training is authorized by the Superfund Amendments and Reauthorization Act of 1986 (SARA) for the education of workers engaged in activities related to hazardous waste removal, containment and emergency response. Your International Health, Safety and Environment Department selected plants where we believe workers should be trained, based on questionnaires returned to us by your Local Union and our experience with assisting members with safety and health problems in similar plants.

If your emergency response team has deficiencies or if no emergency response team currently exists in your plant, we are certain there should be one. This course will give you the education to return to the plant and inform other workers and management what programs are necessary or can be improved. It is still management's responsibility to establish or upgrade the programs.


Who was in your office today.
United Steelworkers
District 10 Leadership
District 10 Director
Bobby "Mac" McAuliffe
1945 Lincoln Highway
North Versailles, PA 15137
(412) 824-8140
(412) 824-9124 (fax)
rmcauliffe@usw.org
Rapid Response Coordinator
George Haseotes
600 North Second Street
5th Floor
Harrisburg, PA 17101
Office (717) 232-0805
Cell (610) 468-9747
ghaseotes@usw.org


WHO ARE WE
WE ARE
UNITED STEELWORKERS
Rapid Response
EDUCATING • EMPOWERING • ENGAGING
Rapid Response is
Steelworkers' nonpartisan grass
education, communication, and
program that provides the neces
structure to inform every U
member about pending legisla
concerning labor and work-rela
issues. Rapid Response prov
opportunity for all USW member
have a strong voice and an active
in the legislative activities that a
their daily lives and allows U
members to fight back on a daily b
on issues that affect them, t
families, and their communities.

For more information regarding pipeline safety and an overview of the pipeline industry please visit the following websites:

Pipeline Resources and Information

- 811 - **www.call811.com**
- Pipeline 101 - **www.pipeline101.com**
- Association of Oil Pipe Lines (AOPL) - **www.aopl.org**
- American Petroleum Institute (API) - **www.api.org**
- Common Ground Alliance (CGA) - **www.commongroundalliance.com**

Government/Regulatory Agencies

- Pipeline Hazardous Materials Safety Administration (PHMSA) - **phmsa.dot.gov**
- Department of Transportation (DOT) - **www.dot.gov**

To learn more about Sunoco Pipeline L.P., or to take our survey, visit our website at: **www.sunocologistics.com**

Sunoco Pipeline L.P. operates the Inland and Harbor pipeline systems.

PRODUCTS THAT MAY BE TRANSPORTED IN YOUR AREA

PRODUCT	*LEAK TYPE*	*VAPORS*
HIGHLY VOLATILE LIQUIDS (SUCH AS: BUTANE, PROPANE, ETHANE, E/P MIX). ONLY IN GLOUCESTER COUNTY, NJ: NATURAL GAS	Gas	Initially heavier than air, spread along ground and may travel to source of ignition and flash back. Product is colorless, tasteless and odorless.
HEALTH HAZARDS	May be ignited by heat, sparks, or flames and may form combustible mixture with air. Vapors may cause dizziness or asphyxiation and be toxic if inhaled at high concentrations. Contact with gas or liquefied gas may cause burns, severe injury and/or frostbite.	
HAZARDOUS LIQUIDS (SUCH AS: CRUDE OIL, DIESEL FUEL, JET FUEL, GASOLINE, AND OTHER REFINED PRODUCTS)	Liquid	Initially heavier than air and spread along ground and collect in low or confined areas. Vapors may travel to source of ignition and flash back. Explosion hazards indoors, outdoors or in sewers.
HEALTH HAZARDS	Inhalation or contact with material may irritate or burn skin and eyes. Fire may produce irritating, corrosive and/or toxic gases. Vapors may cause dizziness or suffocation. Runoff from fire control or dilution water may cause pollution.	

LOS PRODUCTOS QUE TRANSPORTAMOS EN SU ÁREA

PRODUCTO	*TIPO DE FUGA*	*VAPORES*
LÍQUIDOS ALTAMENTE VOLÁTILES (TALES COMO: BUTANO, PROPANO, ETANO, E/T MIX). SOLO EN GLOUCESTER COUNTY, NJ: GAS NATURAL	Gas	Inicialmente más pesado que el aire, se propaga en el suelo y puede viajar hasta fuentes de encendido y ocasionar retrocesos de llamas. El producto no tiene color, sabor ni olor.
RIESGOS A LA SALUD	Puede incendiarse con calor, chispas o con llamas y puede formar una mezcla inflamable con el aire. Los vapores pueden causar mareos o asfixia si estos son inhalados en concentraciones altas. El contacto con el gas o con el gas licuado puede causar quemaduras, lesiones graves y/o congelación.	
LIQUIDOS PELIGROSOS (TALES COMO: PETROLEO CRUDO, COMBUSTIBLE DIESEL, COMBUSTIBLE PARA JETS, GASOLINA Y OTROS PRODUCTOS REFINADOS)	Liquido	Inicialmente más pesado que el aire y se propaga en el suelo y se acumula en áreas bajas o confinadas. Los vapores pueden viajar hasta fuentes de encendido y ocasionar retrocesos de llamas. Los peligros de explosión ocurren adentro, afuera o en los alcantarillados.
RIESGOS A LA SALUD	La inhalación o el contacto con el material pueden irritar o quemar la piel y los ojos. El fuego puede producir gases irritantes, corrosivos y/ tóxicos. Los vapores pueden causar mareos o sofocación. La escorrentía que proviene del control del fuego o de las aguas de dilución puede causar contaminación.	

24-Hour Emergency Number: 800-786-7440

Sunoco Logistics
Sunoco Pipeline L.P.

Non-Emergency Number: 877-795-7271
Website: www.sunocologistics.com

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Laws Broken by Mariner East

Mariner East 1 entered service over four years ago and the operator, Sunoco /Energy Transfer, still has not shared critical, potentially life-saving information with local hazmat teams, emergency responders, schools, townships, counties and homeowners along the pipeline route. There is currently no possibility of creating adequate evacuation route, early warning systems, and a meaningful hazard response. Instead of demonstrating transparency and compliance with our laws and regulations, Sunoco/Energy Transfer has rushed to put into operation their mis-matched, cobbled together workaround pipeline, once again putting their profit above best engineering practices and public safety.

While the operator has now admitted to making mistakes and promised 'to do better:, it is too little, to late. Years of making mistakes while constructing, maintaining, and operating their pipelines has lead to the highest leak and accident rate in the industry. Sunoco/ET continues to operate above the law and abuse their power. Pennsylvanians are continually being exposed to grave danger each day this pipeline is in service and thousands of lives are at stake. The PUC along with Governor Wolf has acknowledged the same.

ENOUGH IS ENOUGH ***The people of Pennsylvania demand that our Title 35 rights met and that the Governor will use his authority and direct his state agencies to protect the public from the involuntary, unmitigated and unconscionable risks NOW!***

PUBLIC AWARENESS PROGRAMS *ARE INADEQUATE People within only the first 1,000 feet are being given information by the operator, which they claim to be sufficient for " Awareness". The instruction to run upwind, on foot, to a 'safe distance' are neither realistic nor adequate. Even if the proper information and education was being given, those outside of the 1,000 fee and still within the probable impact radius need to knowledge to protect themselves and their neighbors.

TITLE 35 PA Section 7313 (5) indicates every person at risk of a known hazard must be warned and informed. There are over 40 schools across the Commonwealth who have not been able to plan for this hazard.

The operator has never disclosed vital information to our schools regarding who to plan for the safety of our students. The continually meet with school officials and provide them with essentially marketing information on the construction and operations of pipelines. They have never disclosed actual risks. **Schools must plan for all local hazards as dictated in TITLE 35 Section 7701 (g)**

Early detection systems provided by SPLP ***are not compliant with state standards for public notification.*** The operator does not have an odorant, a warning siren or other known system that is proven method of public early warning. Their SCADA systems have failed to notify them of leaks.

TITLE 35 part III Section 7313 (6) indicates that PEMA and local emergency response agencies are responsible for such an alarm system to protect the public from known hazards. Why has the operator not worked with our state agencies and complied with state law? Mariner 1 has been operating for 4 years and Mariner 2 and 2x have been in the planning and construction state for far longer.

Early warning systems do not ***comply with federal guidelines.***

The operator tells those living, learning and working in the blast zones not to use cell phones. How can we inform emergency responders of life-threatening situations concerning a release? How should emergency responders inform those of us in danger to begin evacuations without exposing us to more high consequence hazards. TITLE 35 Section 7503 indicates that PEMA is responsible to provide Pennsylvanians with an appropriate emergency alert system. Why has the operator not attempted in 4 years of service of Mariner East 1 to comply with this measure?

Emergency Plans and Response ***are inadequate.*** Without hazard planning by emergency responders we are unprepared and risk catastrophes. **TITLE 35 PART III #7505 indicates** that political subdivisions are required to maintain and keep current disaster prevention and response plans that are reflective of ALL local hazards. Why hasn't the operator given the information to our emergency responders for an emergency of a known hazard running past our schools, homes and public spaces?

Our State has been ***Forced out of Compliance with our Health and Safety Statute.*** Sunoco has had ample time to comply with agencies responsible to protect life and property. Sunoco has relied on 'homeland security' to shield this vital information from those charged with ensuring domestic tranquility. No private entity should be allowed to violate school code or deny Pennsylvanians of their rights and prevent heroic first responders from planning disaster prevention. TITLE 35 part III 7313 (12) indicates PEMA has the power and duty : "To cooperate with the Federal Government and any public or private entity in achieving any purpose of this part and implementing programs for disaster prevention, preparation and recovery". Sunoco has not allowed these brave men and women to comply with their sacred oath. This obfuscation risks a catastrophe, is criminal and puts our first responders at additional risks.

To Whom It May Concern,

The Pennsylvania Emergency Management Agency (PEMA) has significant power over pipelines as they relate to emergency preparedness, mitigation, and response. These powers are explicitly spelled out under Title 35, the Health and Welfare Statue of Pennsylvania. Sunoco's plan to export colorless, odorless, heavier than air combustibles through our communities has been a haphazard idea from the start and an emergency management disaster waiting to happen.

Legislation has not kept pace with advances in the technological innovations the oil and gas industry have made since the creation of the Natural Gas Act. The fact that Pennsylvania has no pipeline siting agency, even though the PA Supreme Court rules the PUC has this authority, means that hard working Pennsylvanians are not safe in their homes and their children are not safe in their schools. Emergency planning does not work in a linear bottom up approach as has been suggested to the public. In fact, responsible planning combines the perspective and expertise of all our community stakeholders. The fact remains that the community's demands to life, liberty, and property have not been properly realized when recovery is the only aspect accounted for in our Emergency Response plan and the all-hazards approach currently in place ignores the mitigation and preparedness requirements as outlined in Pennsylvania Emergency Management Services Code (35 Pa. C.S. §§ 7101 et seq. And 7103).

This approach, to do what we can with what we have, is not legally or morally appropriate for a new and identified risk. It is unproductive at best; and grossly negligent at worst. There has been more than enough information acquired and brought to the attention of our officials in the last four years to see this project for what it is- a dangerous proposal to our Commonwealth that limits our ability as a community to properly identify, mitigate, and respond to the hazards presented by the Mariner East project. The linear model of emergency planning has failed to give residents information or assurances about their safety. Respectfully, and in the spirit of giving our community the due diligence it deserves and is lawfully entitled to, it is time for PEMA to exercise all of its powers and duties under Title 35 b 7313. In fact, it is the obligation of our local government and the expectation of the community to directly involve PEMA in our planning process to correct the deficiencies in our hazard mitigation and response plans that we have been unable to execute ourselves. Safe and reliable service is something that can no longer be touted by the Pennsylvania Public Utility Commission when compared to the requirements as outlined by Title 35 and the requirements our local municipalities must comply with. In fact, the Pennsylvania Public Utility Commission should be asked to determine, IF, service is safe and reliable to the public, as stated in Title 66 Sec 1501, given the unknowns with our current planning, preparedness, and recovery plans.

Attached, please find notes that explicitly outline the facts surrounding the Mariner East project and the obligation of our state to act.

Notes:

Wilmer Baker, Reply Brief Submission
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Protective Distances

Propane ×

Propane CAS RN: 74-98-6

Protective Distance

Distance Data | Protective Distance Map

Spill Location
Address Lat/Long
hempt road, mechanicsburg, pa
Submit

Wind Direction
Point the indicator into the wind.

Spill Size
Large Small

Time of Day
Day Night

Display Units
Hide unit labels on map

Overlay
Change Overlay Color

Opacity

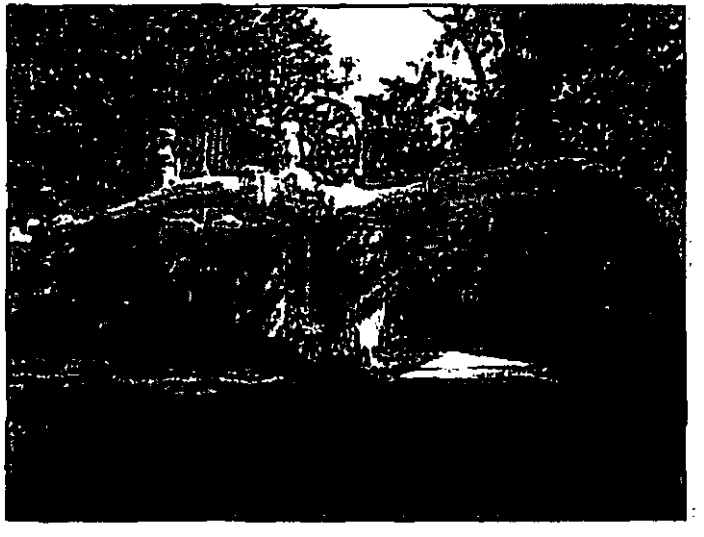
Learn more about protective distances

SPLP-B-000276

Wilmer Baker, Reply Brief Submission
Received September 18, 2019, Page 172 of 173

Emergency Response Procedures

- **If the pipeline release is <u>NOT</u> ignited,**
  - DO NOT cause any open flame or other potential source of ignition such as an electrical switch, vehicle ignition, lighters/matches, road flares, etc.
  - DO NOT start motor vehicles or electrical equipment
  - Special considerations for butane liquid in cold temps



ict 10 State Issues

UNITED STEELWORKERS Rapid Response
EDUCATING • EMPOWERING • ENGAGING

e opposed to Paycheck Deception laws that nterfere with union members rights to partici- the political and legislative process.

ghts

oice to form a union should be left to employ- hout interference or intimidation from the em- Companies should not deny their workers the unity to organize together on the job.

pport legislation to assure that all workers— nd private, professional and non-professional, e and full time, guards, production and service ees—have the legally protected right to union ntation.

pport legislation to assure that once a labor ent is reached, the agreement will be enforce- its term and that employers and their succes- l not be permitted to evade their contractual ons.

ually, we are in favor of legislation to assure h sides in a collective bargaining dispute have conomic, judicial and political resources and on that prohibits the hiring of permanent re- nts of strikers during a labor dispute.

oyee OSHA

upational Safety and Health Act (OSHA) was nto law in 1970, safeguarding the health and f private sector workers. Currently, there are nately 500,000 public workers in Pennsylvania not have any protections under OSHA. State on is needed to protect public workers in the

- Public employees build and maintain our highways, work in sewage plants, guard our over-crowed prisons, fight fires, protect against crime, work in state hospitals and preform a variety of hazardous jobs without OSHA safeguards.
- Pennsylvania needs a well balanced public sector Safety and Health law that would provide needed safeguards by establishing safety and health committees, setting staffing levels for fire fighters, implementing a safety plan to remove asbestos dangers in public places, and provide many other safeguards that are provided by Federal OSHA.

Infrastructure

- Pennsylvania has been in desperate need of transportation funding. Whether its our aging bridges, crumbling roads or underfunded public transportation, all aspects of Pennsylvania's transportation infrastructure need improvement.
- The United Steelworkers supports funding that will produce, continuous, sustainable and appropriate funding levels for all sources of transportation. Using the Federal Highways Administrations conservative job multiplier, we can expect the creation of 30,000 jobs for every $1 billion invested, that means nearly 100,000 jobs will be created with a $3 billion proposal.
- Additionally, we oppose any efforts to privatize portions of our transportation system, such as mass transportation, which is the life-blood to so many communities and businesses.

3M RESPIRATOR TRAINING

This Is To Certify That W. J. BAKER

☒ Has Been Trained In The Use, Limitations And Maintenance Of 3M Brand Respirator(s)

☒ Has Passed a Qualitative Fit Test Using The 3M FT-10 With 3M Brand Respirator(s)
WITH BEARD BUT WAS INSTRUCTED REGARDING RISKS

☒ Could Not Be Fit Tested Due To
BEARD

1/30/98
Date

COMPREHENSIVE TRAINING PROGRAM

Instructor

3M RESPIRATOR TRAINING

I acknowledge having received this Respirator Training while an employee of FSM
(Name of Company)

Employee Signature

Employer's Copy

©3M, 1989

NO SCANNED IMAGES ARE AVAILABLE

COMPLETE TRANSCRIPT AND/OR EXHIBIT(S) MAY BE VIEWED IN THE COMMISSION'S FILE ROOM

How would you recognize a pipeline leak? Page 54 of 318

While pipelines are the safest method of transporting the fuel and products we use every day, knowing how to recognize a pipeline leak is important. The following may indicate a pipeline leak:

- ***Sight:*** Liquid pools, discolored or abnormally dry soil/vegetation, continuous bubbling in wet or flooded areas, an oily sheen on water surfaces, and vaporous fogs or blowing dirt around a pipeline area can all be indicative of a pipeline leak. Dead or discolored plants in an otherwise healthy area of vegetation or frozen ground in warm weather are other possible signs.
- ***Sound:*** Volume can range from a quiet hissing to a loud roar depending on the size of the leak and pipeline system.
- ***Smell:*** An unusual smell, petroleum odor, or gaseous odor will sometimes accompany pipeline leaks.

What to do in the event a leak were to occur:

- Public safety and protecting the environment are the top priorities.
- ***Turn off*** any equipment and eliminate any ignition sources without risking injury.
- ***Leave the area*** by foot immediately. Try to direct any other bystanders to leave the area. Attempt to stay upwind.
- From a safe location, ***call 911*** or your local emergency response number and call the 24-hour emergency number for the pipeline operator. Provide your name, phone number, a brief description and location of the incident so a proper response can be initiated.

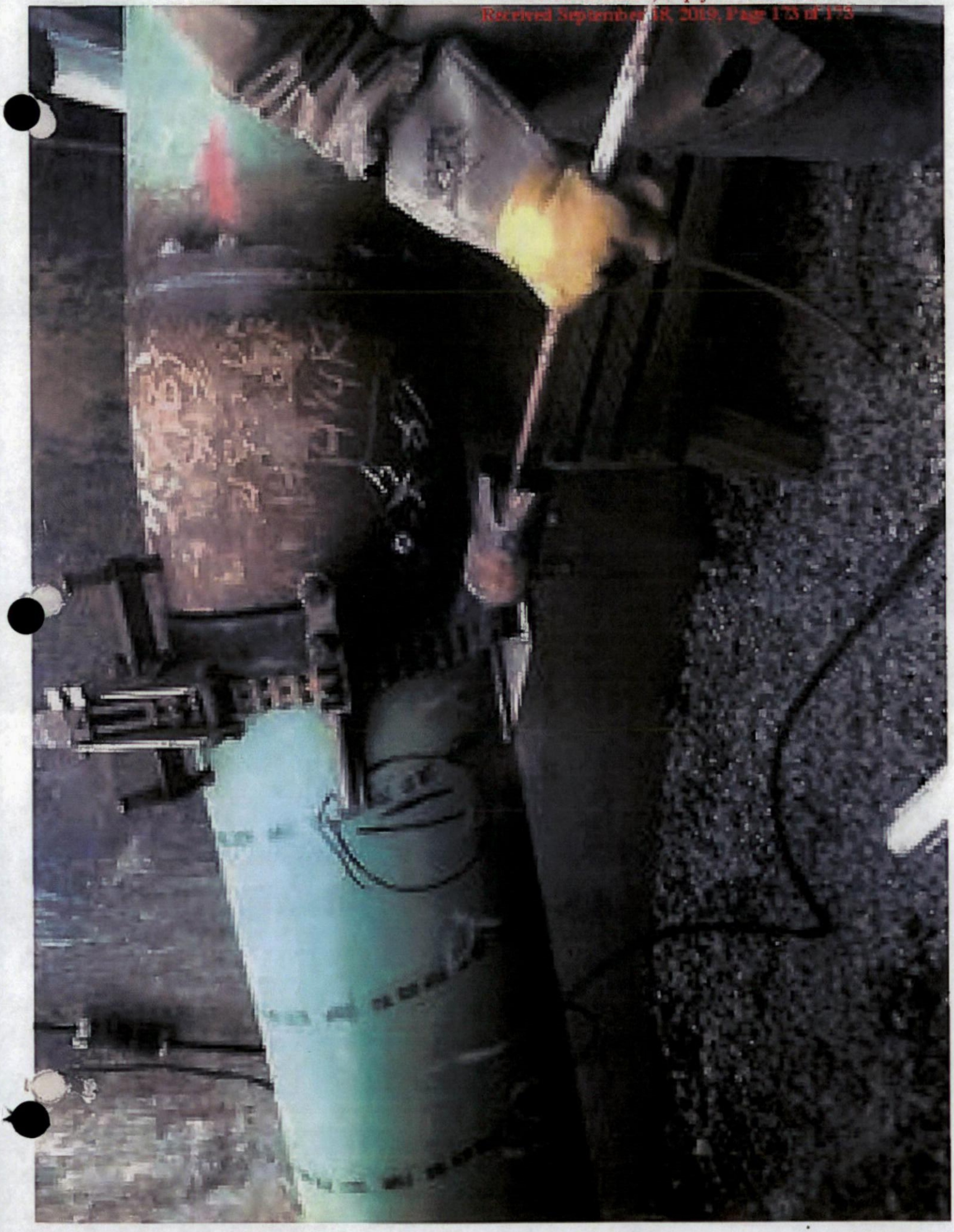
What not to do in the event a leak were to occur:

- ***DO NOT*** cause any open flame or other potential source of ignition such as an electrical switch, vehicle ignition, light a match, etc. Do not start motor vehicles or electrical equipment. Do not ring doorbells to notify others of the leak. Knock with your hand to avoid potential sparks from knockers.
- ***DO NOT*** come into direct contact with any escaping liquids or gas.
- ***DO NOT*** drive into a leak or vapor cloud while leaving the area.
- ***DO NOT*** attempt to operate any pipeline valves yourself. You may inadvertently route more product to the leak or cause a secondary incident.
- ***DO NOT*** attempt to extinguish a petroleum product fire. Wait for local firemen and other professionals trained to deal with such emergencies.

What to do in case of damaging/disturbing a pipeline

If you cause or witness even minor damage to a pipeline or its protective coating, please immediately notify the pipeline company. Even a small disturbance to a pipeline may cause a future leak. A gouge, scrape, dent or crease is cause enough for the company to inspect the damage and make repairs.

All damages to underground gas or hazardous liquid pipeline facilities are required by law to be reported to the operator. Excavators must notify the pipeline company immediately upon damaging a pipeline.



CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the forgoing document upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party).

BY OVER-NIGHT FEDERAL EXPRESS

WILMER JAY BAKER
430 RUN ROAD
CARLISLE PA 17015

Thomas J. Sniscak

Thomas J. Sniscak, Esquire
Whitney E. Snyder, Esquire

Dated: October 1, 2019

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