



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

1200 New Jersey Ave, S.E.  
Washington, D.C. 20590

**JAN 25 2011**

Ms. Kirstin E. Gibbs  
Sutherland Asbill & Brennan LLP  
1275 Pennsylvania Ave., NW  
Washington, DC 20004-2415

RE: Request for interpretation on behalf of Oglethorpe Power Corporation

Dear Ms. Gibbs:

In a letter to the Pipeline and Hazardous Materials Safety Administration (PHMSA) dated August 5, 2010, you requested an interpretation of Federal Pipeline Safety Regulation 49 CFR § 195.436. You specifically asked whether Oglethorpe Power Corporation's (OPC) current configuration of the Hartwell Pipeline's pig piping scraper trap is in full compliance with § 195.436 or whether additional protection for the scraper trap is needed to comply with the regulation.

You provided a description of the pig piping scraper trap, the security measures in place, and three site pictures. The pig piping scraper trap is very close to OPC's generating plant, and is in full view of the plant's security cameras. These security cameras are manned 24 hours a day, seven days per week. The pig piping scraper trap is located up on a hill, away from the road. This road has no thru traffic because it is simply an access road going to OPC's generating plant. Finally, no malicious incidents have occurred in the over 15-year history of the Hartwell Pipeline and the related pig piping scraper trap.

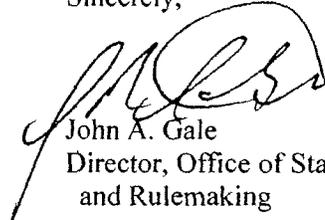
For these reasons, you believe that the current configuration and location of the pig piping scraper trap, along with 24 hour a day, seven days per week security cameras are sufficient to prevent vandalism and unauthorized entry. You would like PHMSA to confirm that your configuration complies with the requirements of § 195.436, or you would like PHMSA to provide guidance as to what steps OPC must take to ensure the pig piping scraper trap is in compliance with § 195.436.

Section 195.436 requires that each operator provide protection for each pumping station and breakout tank area and other exposed facility, including scraper traps, from vandalism and unauthorized entry. The existing configuration as described does not satisfy the requirement because no such protection is provided.

Actions that could satisfy § 195.436 may include locking the pig piping scraper valve, constructing a fence adequate to protect the facility from vandalism and unauthorized entry, or both.

I hope that this information is helpful to you. If I can be of further assistance, please contact me at 202-366-4046.

Sincerely,



John A. Gale  
Director, Office of Standards  
and Rulemaking

**SUTHERLAND**

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**KIRSTIN E. GIBBS**  
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August 5, 2010

VIA E-MAIL

John Gale  
Director of Regulations  
Department of Transportation  
Office of Pipeline Safety  
1200 New Jersey Avenue, S.E.  
Washington, D.C, 20590

Dear Mr. Gale,

Pursuant to our recent telephone conversation, I am writing to inquire about the application of 49 C.F.R. § 195.436<sup>1</sup> to our client's pig piping scraper trap. Specifically, this regulation requires that "[e]ach operator shall provide protection for each pumping station and breakout tank area and other exposed facility (such as scraper traps) from vandalism and unauthorized entry."

Background

In October 2009, our client, Oglethorpe Power Corporation (An Electric Membership Corporation) ("OPC"), acquired 100% of the ownership interests in Hartwell Energy Limited Partnership ("Hartwell"), including 100% ownership of the Hartwell Energy Facility ("Hartwell Facility") electric generating plant and interconnected oil pipeline ("Hartwell Pipeline") located at 415 Smith-McGee Highway 181, Hartwell, Georgia, 30643.

The Hartwell Pipeline is a 8,520' X 12" buried steel pipeline and is used to transfer Fuel Oil from the Plantation Pipe Line Company terminal to the electric generating plant site storage tanks. Since its start-up in 1994, the Hartwell Pipeline has been operated only 8 times, with a total of only 5,921,175 gallons of fuel oil transported. Importantly, there have been no failures since its startup. The Hartwell Pipeline is operated at a very low pressure; it is essentially a

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<sup>1</sup> 49 CFR 195.436

gravity-fed pipeline (excluding the motive force derived from the pressure in the Plantation pipeline from which the Hartwell Pipeline draws fuel oil during fuel delivery operations).

During the due diligence process performed for the facility and pipeline acquisition, OPC identified that the Hartwell Pipeline is subject to certain DOT and PHMSA regulations including the requirements of 49 C.F.R. Part 195. Apparently, the previous pipeline owner and operator believed mistakenly that the Hartwell Pipeline was exempt from DOT and PHMSA jurisdiction because it qualified as an exempt low stress pipeline. However, because the Hartwell Pipeline is located near an Unusually Sensitive Area (Lake Hartwell),<sup>2</sup> OPC concluded that certain DOT and PHMSA regulations apply to the Hartwell Pipeline. Upon learning of the applicability of certain DOT and PHMSA regulations, OPC has undertaken a thorough review of its operations to ensure the Hartwell Pipeline is in full compliance and has submitted several compliance filings with the agency.

#### **Question**

OPC is writing to request clarification that the current configuration of the Hartwell Pipeline's pig piping scraper trap is in full compliance with 49 C.F.R. § 195.436 and that OPC does not need to take additional steps to prevent vandalism and unauthorized entry.

For your information, I have attached three (3) pictures that provide a sense of where the pig piping is located in relation to OPC's generating plant. As you can see from the pictures, it is very close to OPC's generating plant, and in full view of the plant's security cameras. These security cameras are manned 24-hours, 7-days per week. In addition, please note that the pig piping is located up on a hill, away from the road. Importantly, this road has no thru traffic because it is simply an access road going to OPC's generating plant. Finally, I note that no malicious incidents have occurred in the over 15-year history of the Hartwell Pipeline and the related pig piping scraper trap.

For these reasons, OPC believes that the current configuration and location of the pig piping scraper trap, along with 24-hour, 7-day per week security cameras are sufficient to prevent vandalism and unauthorized entry. Please confirm that our understanding is correct, or please provide guidance as to what steps OPC must take to ensure the pig piping scraper trap is in compliance with 49 C.F.R. § 195.436.

Please contact me at 202.383.0671 or at the email address above if you have any questions or need additional information.

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<sup>2</sup>

See 49 C.F.R. § 195.6

Letter to John Gale  
August 5, 2010  
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Thank you for your assistance with this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Gibbs', with a long horizontal flourish extending to the right.

Kirstin E. Gibbs  
Attorney for  
Oglethorpe Power Corporation (An Electric Membership Corporation)

Attachments

cc: Kim Haynes, OPC





