

**AUGUST 30, 2013**

Mr. Greg L. Armstrong  
Chairman and CEO  
Plains All American Pipeline, LP  
333 Clay Street, Suite 1600  
Houston, TX 77002

**Re: CPF No. 5-2009-0018**

Dear Mr. Armstrong:

Enclosed please find the Decision on Reconsideration issued in the above-referenced case. It grants your Petition for Reconsideration, in part, to the extent that you sought reconsideration of an erroneous factual determination in the July 8, 2011 Final Order that the Martinez pipeline was a transmission pipeline, but denies your Petition insofar as it requested that the Final Order be vacated in its entirety for lack of PHMSA jurisdiction over the pipeline. The Decision upholds the findings of violation and the civil penalty set forth in the Final Order. Service of the Decision by certified mail is deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

Enclosure

cc: Mr. Chris Hoidal, Director, Western Region, OPS  
Ms. Linda Daugherty, Deputy Associate Administrator for Field Operations, OPS  
William V. Murchison, Esquire, Counsel for Petitioner, 325 North St. Paul Street, Suite  
2700, Dallas, TX 75201  
Mr. Jordan R. Janek, Senior Director, Environmental and Regulatory Compliance,  
Plains All American Pipeline, LP, P.O. Box 4648, Houston, TX 77210-4648

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

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

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**In the Matter of** )  
 )  
**Plains All American Pipeline, LP,** ) **CPF No. 5-2009-0018**  
 )  
**Petitioner.** )  

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**DECISION ON RECONSIDERATION**

In a July 8, 2011 Final Order, I found that Plains All American Pipeline, LP (Plains or Petitioner), had committed two violations of the natural gas pipeline safety regulations in 49 C.F.R. Part 192 with respect to its Martinez Pipeline.<sup>1</sup> Specifically, I found that Plains had violated 49 C.F.R. § 192.603(b) by failing to keep records for administering its operations, maintenance, and emergency procedures; and had violated § 192.605(a) by failing to have a complete manual of procedures for conducting operations, maintenance, and emergency activities.<sup>2</sup> I assessed Plains a civil penalty of \$108,000 for committing these violations and ordered the company to take certain actions to comply with the cited regulations.<sup>3</sup>

On September 2, 2011, Plains submitted a Petition for Reconsideration (Petition) of the Final Order.<sup>4</sup> In its Petition, Plains contends that the Martinez Pipeline is “not a gathering line, is not a distribution line, [and] is not a transmission line” and therefore is not subject to the Part 192 pipeline safety regulations at all.<sup>5</sup> Petitioner further contends that because the Martinez Pipeline is an intrastate pipeline, PHMSA lacks authority to regulate it insofar as PHMSA has delegated

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<sup>1</sup> *In the Matter of Plains All American Pipeline, L.P.*, Final Order, CPF No. 5-2009-0018 (Jul. 8, 2011). The original Notice of Probable Violation, Proposed Civil Penalty and Proposed Compliance Order (Notice) was issued to Plains Products Terminals, LLC, the operator of the Martinez Pipeline. The Final Order, however, was issued to Plains Products Terminal’s parent company, Plains All American Pipeline, LLC. The Petition was filed on behalf of both entities.

<sup>2</sup> Final Order at pp. 1-4.

<sup>3</sup> *Id.* at pp. 4-6.

<sup>4</sup> On July 20, 2011, Plains submitted a request for an extension of the 20-day deadline for filing its Petition under 49 C.F.R. § 190.215, which PHMSA granted. On August 5, 2011, Plains submitted an additional request to extend the filing deadline until September 15, 2011, which PHMSA also granted. On November 6, 2011, PHMSA granted a stay of the Final Order pending the issuance of a Decision on Reconsideration.

<sup>5</sup> Petition at pp. 13.

direct regulatory responsibility for intrastate natural gas pipelines in California to the California Public Utilities Commission (CPUC), in accordance with the annual certification process set forth in 49 U.S.C. § 60105. For these reasons, Petitioner contends that the Final Order should be vacated in its entirety for lack of PHMSA jurisdiction and authority over the pipeline. On December 21, 2011, the Western Region, Office of Pipeline Safety (OPS), submitted a Response to the Petition (Response) and on January 4, 2012, Plains submitted a Reply to the Response (Reply).

Having reviewed the record, including all factual and legal arguments, I find that the July 8, 2011 Final Order made an erroneous factual determination that the Martinez Pipeline is a transmission line. I further find that a preponderance of the evidence establishes the Martinez Pipeline is a distribution line, not a transmission line. Accordingly, the Petition is granted in part, to the extent that it sought reconsideration of this erroneous factual determination. I also find that the Martinez Pipeline, as an intrastate distribution pipeline subject to the jurisdiction of 49 U.S.C. 60101 *et seq.*, is subject to PHMSA's direct regulatory authority because, notwithstanding its § 60105 certification, the CPUC does not actually regulate California lines such as the Martinez Pipeline that are not within the definition of a "public utility" subject to the CPUC's authority under state law. Accordingly, the Petition is denied insofar as it requested that the Final Order be vacated in its entirety for lack of PHMSA jurisdiction and authority over the pipeline.

### Background

The Martinez Pipeline is a six-inch-diameter natural gas pipeline constructed in 1995 that originates at a meter run located in the 1900 block of Marina Vista Avenue in Martinez, Contra Costa County, California, and transports natural gas a distance of approximately one mile to Petitioner's Martinez Petroleum Products Terminal (Terminal). Petitioner, a publicly-traded company engaged in the transportation, storage, and marketing of petroleum and natural-gas-related petroleum products, is the operator of the pipeline, having acquired it on November 15, 2006.<sup>6</sup> The gas transported in the pipeline supplies a thermal oxidizer unit and a process heater at the Terminal. The Terminal is the sole consumer of the gas transported by the pipeline.

PHMSA has a history of regulating the Martinez Pipeline and its prior operators, including on-site inspections by PHMSA in 2001, 2005, and 2008. On September 20, 2004, PHMSA issued a Final Order in an enforcement action against Shore Terminals, LLC, the former operator of the Martinez Pipeline.<sup>7</sup> This Final Order required that certain actions be taken to comply with the federal pipeline safety regulations, including establishing written operating and maintenance procedures, recordkeeping programs, and the placement of markers along the route of the pipeline. These actions had not all been completed by the time Plains acquired the pipeline in November of 2006. Therefore, this enforcement proceeding was still open at the time Plains

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<sup>6</sup> <http://www.paalp.com/> (last accessed Apr. 11, 2012).

<sup>7</sup> *In the Matter of Shore Terminals, LLC*, CPF No. 5-2001-0010, Final Order (September 20, 2004). The Research and Special Programs Administration was PHMSA's predecessor agency.

acquired the pipeline and presumably, through its due diligence process, Plains was aware that PHMSA had exercised federal authority over the pipeline in the past.

On November 4, 2008, an inspector from the Western Region, OPS, performed an on-site pipeline safety inspection of the Martinez Pipeline. Following the inspection, by letter dated June 26, 2009, the Director, Western Region, OPS (Director) issued the Notice to Plains, alleging that it had violated 49 C.F.R. §§ 192.603(b) and 192.605(a) by failing to have a manual of written procedures and keeping the records necessary to administer its procedures for conducting operations, maintenance, and emergency activities. The Notice proposed assessing a civil penalty of \$108,800 for the alleged violations and proposed ordering Plains to take certain measures to correct the same.

On July 28, 2009, Petitioner responded by contesting the allegations in the Notice on legal grounds.<sup>8</sup> Plains argued that the Martinez Pipeline is not a transmission line under the definition provided in 49 C.F.R. § 192.3 because the line operates at a hoop stress below 20 percent of its specified minimum yield strength (SMYS), does not transport gas within a storage field or to a distribution center or storage facility, and does not transport gas to a large volume customer.

On April 14, 2011, I issued the Final Order in this case. Based on the available record at that time, I agreed that Petitioner's line does not operate at a hoop stress of 20 percent or more of SMYS or transport gas within a storage field. However, I did find that it transports gas to a large volume customer and determined that it therefore met the definition of a transmission line and on that basis was subject to the Part 192 requirements for transmission lines.<sup>9</sup> Plains did not dispute the allegations in the Notice on any other grounds, and the evidence showed that Petitioner did not have a manual or keep the records necessary to administer its procedures for conducting operations, maintenance, and emergency activities for the Martinez Pipeline. Accordingly, I found that Petitioner violated 49 C.F.R. §§ 192.603(b) and 192.605(a), assessed Plains a civil penalty of \$108,800, and ordered the company to take certain actions to comply with the natural gas pipeline safety regulations in 49 C.F.R. Part 192.<sup>10</sup>

On September 2, 2011, Plains filed its Petition, contending that the Martinez Pipeline is “not a gathering line, is not a distribution line, [and] is not a transmission line” and therefore is not subject to the federal pipeline safety requirements at all.<sup>11</sup> In particular, Plains argues that the Martinez Pipeline is not a transmission line under § 192.3 because it does not transport gas to a large volume customer and is downstream from a distribution center.<sup>12</sup> Petitioner further argues that the Martinez Pipeline is a customer-owned service line, making it exempt from the Part 192

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<sup>8</sup> Petitioner did not request an informal hearing under 49 C.F.R. §§ 190.209-211.

<sup>9</sup> Final Order at pp. 1-4.

<sup>10</sup> *Id.* at pp. 4-6.

<sup>11</sup> Petition at pp. 13.

<sup>12</sup> *Id.* at pp. 6-11.

requirements.<sup>13</sup> In addition, Petitioner contends that because the Martinez Pipeline is an intrastate pipeline, PHMSA lacks authority to regulate it since the agency has delegated direct regulatory responsibility over intrastate natural gas pipelines in California to the CPUC, in accordance with the annual certification process set forth in 49 U.S.C. § 60105. Based on these arguments, Petitioner contends that the Final Order should be vacated in its entirety for lack of PHMSA jurisdiction and authority over the pipeline.

### Standard of Review

A Petitioner is afforded the right to petition the Associate Administrator for reconsideration of a Final Order. That right, however, does not constitute an appeal or an opportunity to seek a *de novo* review of the record. Instead, a Petitioner may present previously unavailable information or ask for the correction of any errors in a final order. Repetitious information or arguments will not be considered.<sup>14</sup> Section 190.215(b) of the pipeline safety regulations states that “[i]f the respondent requests the consideration of additional facts or arguments, the respondent must submit the reasons they were not presented prior to issuance of the final order.”

Plains acknowledges that it is seeking to present additional facts and arguments in its Petition and Reply, but states that they should be considered on reconsideration for several reasons. First, Petitioner states that any information relating to PHMSA’s jurisdiction over the Martinez Pipeline must be admitted because jurisdictional challenges are not subject to waiver and can be raised at any time in a proceeding. In particular, Plains argues that information obtained just before it filed its Reply concerning the proper regulatory classification of the line should be admitted, as it had to be obtained from Pacific Gas and Electric (PG&E), a third-party, and is directly relevant to the extent of the regulatory authority on which the Final Order was based. Finally, Petitioner notes that the Director has not objected to the introduction of this additional information, and had indicated in his Response to the Petition that further information could impact the appropriate regulatory classification of the Martinez Pipeline.

I agree that the additional facts and arguments presented by Plains should be considered in this proceeding. Jurisdictional challenges can generally be raised at any point in a proceeding, and Petitioner’s new information relates to PHMSA’s authority to regulate the Martinez Pipeline. Moreover, key information regarding the classification of the pipeline supplying the Martinez Pipeline was not obtained until after the issuance of the Final Order. I am, therefore, considering the additional arguments, facts, information, and evidence offered by Plains in its Petition and Reply.

### Analysis

#### *I. Regulatory Classification of the Martinez Pipeline*

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<sup>13</sup> *Id.* at 11-12.

<sup>14</sup> 49 C.F.R. § 190.215(a)-(e).

In its Petition, Plains contends that the Martinez Pipeline is “not a gathering line, is not a distribution line, [and] is not a transmission line” and therefore is not subject to the Part 192 pipeline safety regulations at all.<sup>15</sup> The pipeline regulatory classification system is based on the Natural Gas Pipeline Safety Act of 1968 (NGPSA) (P.L. 90-481), codified at 49 U.S.C. 60101 *et seq.*, which authorizes the Secretary of Transportation to regulate the safe transportation of natural gas by pipeline. Under 49 U.S.C. § 60101(a)(6), the definition of an “Interstate gas pipeline facility” is as follows:

*Interstate gas pipeline facility* means a gas pipeline facility—  
 (A) used to transport gas; and  
 (B) subject to the jurisdiction of the [Federal Energy Regulatory] Commission under the Natural Gas Act (15 U.S.C. 717 *et seq.*);

Under 49 U.S.C. § 60101(a)(9), the definition of an “Intrastate gas pipeline facility” is as follows:

*Intrastate gas pipeline facility* means a gas pipeline facility and transportation of gas within a State not subject to the jurisdiction of the [Federal Energy Regulatory] Commission under the Natural Gas Act (15 U.S.C. 717 *et seq.*);

Under 49 U.S.C. § 60101(a)(21), the definition of the phrase “Transporting gas,” in relevant part, is as follows:

*Transporting gas*  
 (A) means the gathering, transmission, or distribution of gas by pipeline, or the storage of gas, in interstate or foreign commerce; . . . .

Therefore, PHMSA’s safety authority broadly encompasses the entire natural gas pipeline transportation network, from the gas gathering lines that move natural gas from production-well areas, to the gas transmission lines that transport natural gas across long distances from producing areas to consuming areas, to the gas distribution lines that deliver gas to end-users such as homes and businesses. Thus, PHMSA’s authority under the NGPSA is even broader than the authority of the Federal Energy Regulatory Commission under the Natural Gas Act in that it includes gas distribution pipelines which are intrastate” pipelines.<sup>16</sup>

The Secretary of Transportation has delegated the authority to regulate pipeline safety to PHMSA, which promulgated the implementing regulations at 49 C.F.R. Part 192.<sup>17</sup> The definitions of “Distribution line”, “Gathering line”, and “Transmission line” in 49 C.F.R. § 192.3 are as follows:

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<sup>15</sup> Petition at pp. 13.

<sup>16</sup> The term “intrastate pipeline” is used as a label for purposes of designating whether a state having a § 60105 certification will be the primary regulator of the subject line or whether PHMSA will exercise its residual authority to regulate pipelines that are not regulated by the state.

<sup>17</sup> See 49 C.F.R. § 1.53 for the Secretary’s delegation of this authority to the Administrator of PHMSA.

*Distribution line* means a pipeline other than a gathering or transmission line.

*Gathering line* means a pipeline that transports gas from a current production facility to a transmission line or main.

*Transmission line* means a pipeline, other than a gathering line, that: (1) Transports gas from a gathering line or storage facility to a distribution center, storage facility, or large volume customer that is not down-stream from a distribution center; (2) . . .

NOTE: A large volume customer may receive similar volumes of gas as a distribution center, and includes factories, power plants, and institutional users of gas.

Under this classification system, every pipeline transporting gas is either a gathering line, a transmission line, or a distribution line. Therefore, I cannot accept Petitioner's argument that the Martinez Pipeline is none of the above. Doing so would create an anomaly that has never existed in the four decades the pipeline safety regulations have been in effect and would create a gap in pipeline safety regulation that would run counter to the purpose and intent of the NGPSA.

As noted above, the April 14, 2011 Final Order determined that the Martinez Pipeline is a transmission line. In its Reply, however, Petitioner provided a key piece of new information. The PG&E pipeline "upstream" of the Martinez Pipeline, which supplies the gas entering the Martinez Pipeline, is designated as DFM 3019-02 and is not a transmission line, as was thought at the time the Final Order was issued. Rather, DFM 3019-02 is actually a distribution pipeline.<sup>18</sup> While intrastate pipeline and/or distribution systems can include both transmission lines and distribution lines, once gas has entered a distribution line, the smaller diameter, lower pressure lines branching downstream of that distribution line are generally also considered to be distribution lines, not transmission lines. While there can be certain exceptions to this in the case of "looped" distribution systems, in this case we are not dealing with a looped portion of a distribution system. Therefore, the fact that the Martinez Pipeline is downstream of a distribution pipeline means that the Martinez Pipeline is a distribution pipeline as well. This also makes the arguments concerning whether the Martinez Pipeline transports gas to a large volume customer and any other arguments concerning the definition of a transmission line moot.

This brings us to Petitioner's alternative argument, as presented in its Reply, that the Martinez Pipeline is not regulated under Part 192 because it is a "customer owned service line."<sup>19</sup> A service line is defined in § 192.3 as follows:

*Service line* means a distribution line that transports gas from a common source of supply to an individual customer, to two adjacent or adjoining residential or small commercial customers, or to multiple residential or small

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<sup>18</sup> E-mail from Frank Eich, Sr. Account Manager, PG&E to Jordan R. Janek, Senior Director, Environmental & Regulatory Compliance, Plains All American Pipeline, L.P., dated January 2, 2012 (Plains Reply, Exhibit C). DFM 3019-02 is downstream of a PG&E transmission pipeline designated as "StandPac-3."

<sup>19</sup> Reply at pp. 41-45.

commercial customers served through a meter header or manifold. A service line ends at the outlet of the customer meter or at the connection to a customer's piping, whichever is further downstream, or at the connection to customer piping if there is no meter.

Service lines, therefore, are a subset of distribution lines. To say that a distribution line such as the Martinez Pipeline is a service line does not necessarily mean it is unregulated.<sup>20</sup> The term “customer owned” service line is typically used to refer to a service line owned by the customer that is downstream of the meter or other point where the pipeline company’s operator status ends. Typically, such a line is located entirely on the grounds of the customer’s property, such as when the meter is located at the edge of the customer’s property, as opposed to being located at the wall of the home or building being supplied. The fact that transportation has ended is the basis for the absence of regulation on a customer-owned service line located entirely on a customer’s property.<sup>21</sup>

However, if the line is not located entirely on the customer’s own property but transports gas across property owned by others, across public lands, under roadways, and over other areas accessible to the public, then the “customer” is actually engaged in pipeline transportation itself. In this case, Petitioner is both the operator of the Martinez pipeline and the ultimate consumer of the gas being transported. The fact that the Martinez Pipeline is not located entirely on Petitioner’s property and extends approximately one mile across areas open and accessible to the public means that the line is still subject to the jurisdiction of the NGPSA. Simply put, Petitioner is using the Martinez Pipeline to transport gas.<sup>22</sup>

In summary, the preponderance of the evidence establishes that the Martinez Pipeline is a distribution pipeline. Accordingly, I find on reconsideration that the factual determination made in the July 8, 2011 Final Order that the Martinez Pipeline was a transmission pipeline was erroneous. I also find, however, that the transportation of gas through the Martinez Pipeline by Petitioner is subject to the pipeline safety regulations for distribution lines and that the Martinez Pipeline is not exempt from regulation, regardless of whether or not Petitioner labels it as a customer owned service line.

## *II. Effect of the CPUC’s § 60105 Certification on PHMSA’s Authority to Regulate the Martinez Pipeline.*

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<sup>20</sup> See 49 C.F.R. §§ 192.361–192.381.

<sup>21</sup> In some cases, the pipeline operator maintains customer-owned service lines. Under 49 U.S.C. § 60113, operators of gas pipelines supplying customer owned service lines are obligated to provide hazard notifications and safety assistance.

<sup>22</sup> In its Petition, Plains refers to a February 13, 1996 PHMSA interpretation letter that designates a gas line fueling the lighting for a planned community’s entrance as a customer owned service line that was not entirely confined to private property. This interpretation, however, does not indicate if the line crossed public property. Although the exact facts were not discussed in the interpretation, the line appears to have been very short and on private property, with an easement to the homeowners association. In contrast, the Martinez Pipeline is approximately a mile in length and crosses a major highway, toll areas, and a railroad, creating a different safety risk than a short line from a customer’s property line to a building. See also 60 Fed. Reg. 41821 discussing customer owned service lines.



In its Petition and Reply, Plains further argues that PHMSA is precluded from regulating the Martinez Pipeline because “PHMSA has ceded jurisdiction over the Subject Line...to the CPUC.”<sup>23</sup> Petitioner bases its argument on the CPUC’s annual certification under 49 U.S.C. § 60105 that, with certain exceptions not relevant here, authorizes the CPUC to regulate intrastate natural gas pipelines in California. Respondent points to the language of § 60105(a) stating that “...the Secretary of Transportation may not prescribe or enforce safety standards and practices for an intrastate pipeline facility or intrastate pipeline transportation to the extent that the safety standards and practices are regulated by a State authority . . . that submits [an annual certification] to the Secretary.”

In his Response, the Director points out that the prohibition in § 60105(a) only applies *to the extent* that the safety standards and practices for an intrastate gas pipeline facility are regulated by a state authority. The Director, who works in close partnership with the CPUC, states that the CPUC does not have the authority to regulate the Martinez Pipeline or Plains, because the CPUC has determined that neither meets the definition of a “public utility” or “gas corporation” in Cal. Pub. Util. §§ 216 and 222. In the absence of regulation of the Martinez Pipeline by the CPUC, the Director maintains that PHMSA is not prohibited by § 60105(a) from prescribing and enforcing the safety standards and practices for the operation of the Martinez Pipeline.

While the NGPSA establishes broad federal regulation of the entire natural gas pipeline transportation system, Petitioner is correct that the federal pipeline safety laws included a role for the states in regulating the intrastate pipelines within their borders through authority derived from the § 60105 certification process. PHMSA’s policy is to encourage each state to take responsibility for as much of the intrastate pipeline transportation within its borders as possible and federally funds these state pipeline safety programs. PHMSA works in close partnership with the state programs, provides training to state pipeline inspectors, and periodically evaluates the effectiveness of the state programs in regulating their intrastate pipelines. If PHMSA determines that a state pipeline safety program is inadequate, PHMSA can revoke its certification, in which case responsibility for regulating the intrastate pipelines in that state reverts back to PHMSA. Therefore, PHMSA has residual authority to directly regulate intrastate pipelines when a state is not doing so.<sup>24</sup>

With respect to the prohibition in § 60105(a), we first look to the plain language of the statute and the presumption that a legislature says in a statute what it means and means in a statute what it says.<sup>25</sup> In that regard, the plain language of the prohibition in § 60105(a) only applies “to the extent” that the safety standards and practices for an intrastate gas pipeline facility “are regulated” by a state authority. Consistent with the purpose and federal-state structure established by the NGPSA, this prohibits PHMSA from overlapping with state regulatory activity but ensures that PHMSA has a residual “backstop” authority where, for whatever reason,

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<sup>23</sup> Reply at pp. 17.

<sup>24</sup> See 49 U.S.C. § 60105(f).

<sup>25</sup> *Barnhart v. Sigmon Coal Co., Inc.*, 534 U.S. 438, 450 (2002); *Conn. Nat. Bank v. Germain*, 503 U.S. 249, 253-254 (1992).

a state ends up regulating something less than all of the intrastate pipelines within that state. Petitioner's argument amounts to the proposition that in those instances where a state is not regulating a given type of intrastate pipeline, then such a line is not regulated at all.

I cannot accept this argument. If PHMSA did not have residual authority in instances where certain types of intrastate pipelines were not being regulated by a state, it would open up gaps in pipeline safety regulation, frustrate the purposes of the NGPSA, and put the public at risk.<sup>26</sup> In the absence of the exercise of federal authority, the Martinez Pipeline would not be subject to any regulatory authority for pipeline safety purposes.

Petitioner has not disputed the Director's assertion that the CPUC does not have the authority to regulate the Martinez Pipeline under Cal. Pub. Util. §§ 216 and 222 and is not regulating it. For the reasons discussed above, I find that § 60105(a) does not prohibit PHMSA from enforcing the Part 192 regulations on the Martinez Pipeline.

### **RELIEF GRANTED**

Based on a review of the record and for the reasons stated above, the factual determination made in the July 8, 2011 Final Order that the Martinez Pipeline was a transmission pipeline is vacated and the classification for the Martinez Pipeline is corrected to be that of a distribution pipeline.

### **RELIEF DENIED**

Based on a review of the record and for the reasons stated above, the Petition is denied insofar as it requests that the findings of violation, civil penalties, and compliance order in the Final Order be vacated for lack of PHMSA jurisdiction and authority over the Martinez Pipeline. I further find that facts and evidence of record support the civil penalty assessed in the Final Order.<sup>27</sup>

Service of this Decision terminates the stay of the Final Order granted on November 6, 2011. This Decision is the final administrative action in this proceeding.

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Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

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Date Issued

<sup>26</sup> Many events can change the designation of a pipeline from interstate to intrastate or otherwise affect its regulatory status, including construction of a line that interconnects two pipelines or even a preemption decision by a federal court finding that a pipeline facility formerly designated as intrastate is actually interstate. Nothing in the NGPSA, however, suggests that such events would result in a pipeline being completely unregulated until such time as a state certification could be modified.

<sup>27</sup> The Final Order violations involved code sections that apply to both transmission and distribution pipelines.