

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

July 29, 2009

Mr. Mark J. Gorman
Senior Vice President, Operations & Business Development
Plains Pipeline, L.P.
333 Clay Street
Suite 1600
Houston, Texas 77002

CPF 4-2009-5009

Dear Mr. Gorman:

On January 20, 2009, Plains Pipeline, L.P. (Plains) wrote to the Pipeline and Hazardous Materials Safety Administration (PHMSA) requesting a Limited Term Special Permit to waive compliance from PHMSA's pipeline safety regulation pursuant to 49 CFR §195.432. This petition was for a special permit to provide an 18 month extension to the requirement to perform API 653 Out Of Service (OOS) inspections on thirty-three (33) above ground storage tanks, located in Texas (25), Oklahoma (4), New Mexico (1), Louisiana (1), Alabama (1), and Mississippi (1). These storage tanks operating under PHMSA Operator ID No. 00300, were to have their OOS completed by May 3, 2009 (as stated by Plains).

On January 27, 2009, Plains requested a Stay of Enforcement from the PHMSA Director of the Southwest Region. Plains requested that PHMSA stay the enforcement on API 653 OOS inspection requirements pursuant to 49 CFR 195.432(d) on the 33 listed tanks pending approval of the Petition for Limited-Term Special Permit.

On February 17-20 and March 9-12, 2009, representatives of the PHMSA pursuant to Chapter 601 of 49 United States Code performed inspections on 29 of the thirty-three tanks; which although addressed as storage tanks in the letters from Plains, are considered jurisdictional breakout tanks subject to 49 CFR Part 195. The inspection consisted of a field review of each tank and a record review for maintenance and cathodic protection and any type of tank inspection performed for each tank. The 29 tanks inspected were in Texas, Oklahoma, and New Mexico (Plains dropped one tank from consideration just prior to inspection).

Plains made certain integrity claims for their tanks in the Special Permit application. In review of their application and in order to render a decision on the permit, PHMSA made visits to Plains' stations to validate their claims. Our observations during these visits yielded these probable violations. The items noted below were not a part of the Special Permit application. Plains had committed probable violations of the regulations, as noted below, prior to making their application. These items were determined to have existed prior to Plains' request for a Permit and Stay of enforcement.

As a result of the inspections, it appears that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violation(s) are:

1. §195.432 Breakout tanks.

(b) Each operator shall inspect the physical integrity of in-service atmospheric and low-pressure steel aboveground breakout tanks according to section 4 of API Standard 653. However, if structural conditions prevent access to the tank bottom, the bottom integrity may be assessed according to a plan included in the operations and maintenance manual under §195.402(c)(3).

Plains failed to inspect the physical integrity of certain breakout tanks according to Section 4 of API 653. Section 4 of API 653 provides an evaluation of the suitability of an existing tank for continued service, or for a change of service, or when making decisions involving repairs, alterations, dismantling, relocating, or reconstructing an existing tank (see Section 4.1.2.). API Standard 653 Sections 4.3.1.4, 4.41, and 4.5.1.1 reference Section 6 for the inspection intervals of tanks.

API Standard 653 Section 6.3.1.2 states that routine in-service tank inspections shall be consistent with conditions at the particular site, but shall not exceed one month. At the time of the inspections, documentation provided by Plains personnel indicated that Plains had not inspected some breakout tanks within the required monthly interval. Specifically:

Hendrick Station

Tank #257 missing reports for Nov, Dec 2008 and Jan 2009, 3 inspections missed

Tank #259 missing reports for Nov, Dec 2008 and Jan 2009, 3 inspections missed

Tank #260 missing reports for Nov 2007 through Dec 2008, 14 inspections missed

Wink East Station

Tank #1644 missing reports for Oct 2007 through Jan 2009, 16 inspections missed

Tank #1653 missing reports for Oct 2007 through Jan 2009, 16 inspections missed

API Standard 653 Section 6.3.1.3 states that the routine inspection shall include visual inspection of the tank's exterior surfaces. Evidence of leaks; shell distortions; signs of settlement; corrosion; and condition of the foundation, paint coatings, insulation systems, and appurtenances should be documented for follow-up action by an authorized inspector.

At the time of the inspections, Plains could not demonstrate that they performed remedial actions in a timely manner on issues identified on the inspection forms. Plains should have been able to repair issues identified and documented monthly on their Form 505 – Tanks Inspections in a more judicious manner. Specifically:

Monahans Station

- Tanks #1718 and #1719 each had a grounding cable unattached from 1/5/07 until 2/18/09 (the day before our inspector arrived). Approximately 25 months to repair.

Wink East Station

- Tank #1644 and #1653 had rivets leaking, alarms not working and excessive vegetation from 12/29/07 through 9/30/08. Approximately 9 months to address.
- Tank #1644 had a tank valve not operating for the same time frame. Approximately 9 months to address.

Hendrick Station

- Tank #257 had unsatisfactory conditions reported on 5/26/07 for the roof, shell and firewall. Conditions were removed from reporting for the roof on 12/30/07, firewall on 5/31/08, and the shell on 8/29/08. Approximately 7 months to 15 months to address.
- Roof seals were reported damaged in 10/24/08 and no repair reported.
- On Tank #259 excessive vegetation and paint failure was reported 5/27/07 until 6/30/08. Approximately 13 months to address.

At the time of the inspections, numerous tanks were observed to have foundations that were compromised by excessive vegetation and holes made by burrowing animals. Some of these indications were documented on the previous 5 year API external inspections performed in 2004. Other tank foundations displayed signs of potential undermining, displaced soil or recently-placed non-compacted soils under the ring wall and/or cracked concrete ring walls, some with makeshift repairs. The following details the condition and the tanks affected:

Unsupported foundations and excessive vegetation:

- McCamey Station: Tanks 273, 275, 276, 277, 283, 287 and 288
- Crane West Station: Tank 1380
- Wheeler Station: Tanks 319, 327
- Jal Station: Tank 1285

Various integrity concerns with foundation, tank shell and Chime Ring:

- Midland Mesa Station: Tank 2009
- Crane West Station: Tank 1380
- McCamey Station: Tank 273
- Jal Station: Tank 1285
- Cimarron Station: Tanks 41078, 41080, 41082, & 41085

Inadequate coating and leaking rivets:

- Wink East Station: Tanks 1644, #1653 and #1703
- McCamey Station: Tanks 284, 287, 288,
- Monahans Station: Tanks 1718 & 1719
- Crane Station: Tank 1381
- Cimarron Station: Tanks 41078, 41080

At the time of the inspections, inspectors found makeshift repairs to breakout tanks and their foundations that were undocumented by Plains. Specifically, no records were available for the following:

- Recently placed non-compacted soils around Tanks #303 and #319 at Wheeler Station
- Recently placed non-compacted soils around Tank #41085 at Cimarron Station
- Fusion bonded epoxy-like material applied onto rivets Tank #41085 at Cimarron Station
- Application of house bricks placed for support as the foundation of Tank #1285 at Jal Station.

API Standard 653 Section 6.3.2.1 states that all tanks shall be given a visual external inspection by an authorized inspector and must be conducted at least every 5 years or $RCA/4N$ years¹, whichever is less. Tanks may be in operation during this inspection.

At the time of the inspection, Plains personnel provided documentation that Cimarron Tank #41085 had not been given a visual external inspection by an authorized inspector within a 5 year interval. Documentation indicated the tank was last inspected externally by an authorized inspector on 10/23/2003, exceeding the 5 year interval by 118 days (on February 18, 2009).

2. §195.436 Security of facilities.

Each 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.

At the time of the inspection, two stations were found where the fences present were not providing adequate protection from vandalism and unauthorized entry.

The two stations, Cimarron and Wheeler, have a total of seven breakout tanks being inspected along with other tanks that were not being protected from vandalism and unauthorized entry. One side of the Cimarron Station is open to the river with no fence or any protection provided. Unauthorized entry and vandalism was evident from the gunshot patterns seen on the side of Tank #327 at Wheeler Station. All tanks at the Wheeler Station had open unsecure access to each tank roof.

3. §195.581 Which pipelines must I protect against atmospheric corrosion and what coating material may I use?

(a) You must clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere, except pipelines under paragraph (c) of this section.

(b) Coating material must be suitable for the prevention of atmospheric corrosion.

(c) Except portions of pipelines in offshore splash zones or soil-to-air interfaces, you need not protect against atmospheric corrosion any pipeline for which you demonstrate by test, investigation, or experience appropriate to the environment of the pipeline that corrosion will-

(1) Only be a light surface oxide; or

(2) Not affect the safe operation of the pipeline before the next scheduled inspection.

¹ where RCA is the difference between the measured shell thickness and the minimum required thickness in mils, and N is the shell corrosion rate in mils per year

Plains failed to coat each pipeline exposed to the atmosphere to prevent against atmospheric corrosion. During our inspection at the Cimarron station, we noted new piping that was installed and connected to tankage. Per Plains personnel, this piping had been installed in July/August of 2006. This piping should have had adequate protection from atmospheric corrosion. This piping, as installed, is meant to be above ground and did not appear to have the proper protection from atmospheric corrosion. Plains did not offer any test or documentation to show that any corrosion would be light or not affect the safe operation of the pipeline.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$88,400 as follows:

<u>Item number</u>	<u>PENALTY</u>
#1	\$ 46,700
#3	\$ 41,700
Total	\$ 88,400

Proposed Compliance Order

With respect to items #1 - 3 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Plains. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. Be advised that all material you submit in response to this enforcement action is subject to being made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b). If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order.

In your correspondence on this matter, please refer to **CPF 4-2009-5009** and for each document you submit, please provide a copy in electronic format whenever possible.
Sincerely,

R. M. Seeley
Director, Southwest Region
Pipeline and Hazardous
Materials Safety Administration

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

PROPOSED COMPLIANCE ORDER

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

1. In regard to Item Number 1 of the notice pertaining to inspections of breakout tanks;
 - a) Plains shall provide documentation of remedial actions performed on any of the tanks listed in the permit request that remains in service
 - b) Plains shall complete the 5-year external inspection of Cimarron Tank #41085 by an authorized inspector
 - c) Plains shall review its tank inspection procedures and revise to address remediation requirements, specifically when repairs must be made after discovery of a condition is recorded
 - d) This is to be accomplished within 90 days following receipt of the Final Order.
2. In regard to Item Number 2 of the Notice pertaining to inadequate security if any of the locations still contain active breakout tanks;
 - a) Plains shall provide evidence that the inadequate security found at the Cimarron and Wheeler Stations has been corrected
 - b) Plains shall review the remaining stations in their system where breakout tanks are located and provide of summary of findings and a plan to provide adequate security for each tank or facility, regardless of the remoteness of the tank or facility
 - c) This is to be accomplished within 60 days following receipt of the Final Order.
3. In regard to Items Number 3 of the Notice pertaining to inadequate coating;
 - a) Plains shall inspect and coat each line located at Tank #41085 at the Cimarron Station that was exposed for prevention of atmospheric corrosion and provide documentation when completed
 - b) Plains shall review the remaining stations in their system where piping is exposed and provide a summary of findings and a plan to inspect and coat each affected section of piping
 - c) This is to be accomplished within 60 days following receipt of the Final Order.
4. Submit the results of the Proposed Compliance Order items above to Mr. R.M. Seeley, Region Director, Southwest Region, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 8701 South Gessner, Suite 1110, Houston, Texas 77074.
5. Plains shall maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Mr. R. M. Seeley, Region Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration. Costs shall be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.