



U.S. Pipelines and Logistics

BP Pipelines (North America) Inc.
28100 Torch Parkway
Warrenville, Illinois 60555

August 12, 2010



Mr. Jeffrey D. Wiese
Associate Administrator for Pipeline Safety
Pipeline & Hazardous Materials Safety Administration
U.S. Department of Transportation
1200 New Jersey Ave SE
Washington, D.C. 20590

Re: CPF 4-2007-5003

Dear Mr. Wiese:

BP Pipelines (North America) Inc. (BP) is writing in response to the above referenced Final Order received in our offices on July 23, 2010, regarding the pipeline safety inspections of BP facilities in the states of New Mexico, Texas, and Oklahoma during August 2004 and on various dates between July and December, 2005.

This response constitutes BP's petition for reconsideration of this Final Order pursuant to 49 C.F.R. §190.215, for consideration regarding facts in absentia of tank records present during the 2004, 2005 inspections (API RP 653 monthly, annual, five year). Further, given the time lag between 2004, 2005 DOT/OPS/PHMSA (PHMSA) inspection, the July 2007 Hearing, and this July 2010 Final Order, there has been a severe limit on the fair opportunity of judgment due to evidentiary availability with asset sales, record(s) transfer, and key BP and DOT personnel departures. This raises questions about due process regarding this CPF.

The information below contains brief statements of the issues surrounding Final Order Item Number 6.

Item 6: PHMSA alleged that BP violated §195.432 (b) and (d) by failing to inspect its in-service breakout tanks. Both PHMSA and BP agree that the required inspections were in fact conducted. But PHMSA alleged that BP had somehow failed to properly document how BP followed up on the inspections. The PHMSA inspector chose to neither review, nor take, nor present any BP API 653 inspection evidence, the very evidence that needed to be evaluated in order to make the allegation. These records,

denoting past inspection and follow up items, were readily available at the time of inspection. PHMSA allegations or inspection photographs do not present compliance actions or status as to an ongoing 653 program in progress, nor credit integrity analysis of physical tank integrity.

In PHMSA's Final Order, one of the bases for supporting the allegation in item 6 alleges that "certain follow up actions, such as the analysis of the reinforcing plates for [Monroe] Tank 6965, occurred after the Notice was issued". This is incorrect. BP performed two analyses of the reinforcing plates. The first one was an internal evaluation by a Certified API 653 Tank Inspector at the time of the tank inspection, which concluded that the reinforcing plates were acceptable. This was completed *before* the Notice was issued. BP conducted the follow-up third party analysis of the reinforcing plates merely to satisfy the PHMSA inspector's concerns noted at the time of the PHMSA inspection. Importantly, the third party analysis confirmed the conclusion made after BP's internal review. It is arbitrary and capricious for PHMSA to use a voluntary action to support a Finding, particularly where results of the voluntary action show that BP's initial, pre-Notice action was correct.

BP did perform a review to ensure that all of BP's breakout tanks are in compliance with 195.432. BP is in compliance with 195.432 and affirms API-653 requirements are met, with any findings corrected, through a dedicated operations maintenance management system and tank program. The data and results generated during API-653 internal and external inspections were present, along with a report showing resolution of any issues discovered during the inspection and an explanation of any issues that were not resolved.

PHMSA alleges that BP "voluntarily modified its procedures to require summary reports within 30 days of the API 653 inspections" (Final Order, page 7). This appears to be included as a justification for PHMSA's finding, but the statement about the need of procedural change is not accurate. BP simply created a "tank project" Table of Contents (or index) to be included in a project box, for ease of inspection follow up. BP did so because the PHMSA inspector at the time suggested that BP create this index so that inspectors could more "easily" review contents of project file 653 actions.

BP affirms that there were hard copy files, in each tank(s) project box, of inspection records that were made available for PHMSA inspector(s) review in 2004 and 2005. But these records were neither reviewed nor evaluated properly by PHMSA at the time of the inspections. The amount of PHMSA unit inspection of said pipeline mileage and facilities left the inspector with little time to conduct necessary reviews. The inspector's consideration of the status of follow-up action documentation, post 653 did not occur.

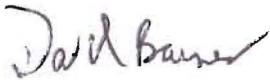
Finally, a repeat PHMSA inspection, September 2009, of BP tank inspection records of BP's Cushing area tanks (including Cushing Terminal and Shinn/Pence Tank Farms) were subsequently reviewed in detail. Each of the 56 tanks were also inspected in the field. This resulted in no findings.

BP Pipelines contends that the fine amount is disproportionate in comparison to the isolated and relatively minor findings on tanks. At the time of the 2004/2005 inspection, PHMSA cited 5 tanks, out of a total of approximately 112 tanks that were part of the inspection. After the DOT 2004 and 2005 inspections, BP divested some of its assets. During the follow-up inspection in 2009, there were 56 tanks reviewed with no findings.

BP Pipelines respectfully requests that this response be included in the record. BP Pipelines remains committed to working cooperatively with your office with the ultimate goal of further enhancing the safety of our operations.

Please feel free to contact me directly at (630-836-3435) should you have any questions pertaining to this matter.

Sincerely,



David O. Barnes, P.E.
Manager DOT & Integrity
BP Pipelines (North America) Inc.

cc: Mr. Rod M. Seeley, Director, Southwest Region, PHMSA