

March 16, 2022

VIA ELECTRONIC MAIL TO: bill.moler@tallgrassenergylp.com

Mr. William Moler
Director and Chief Executive Officer
Tallgrass Energy, LP
Trailblazer Pipeline Company
4200 W. 115th Street, Suite 350
Leawood, Kansas 66211

Re: CPF No. 3-2021-1003

Dear Mr. Moler:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$36,600, and specifies actions that need to be taken by your subsidiary, Trailblazer Pipeline Company, to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the compliance order completed, as determined by the Director, Central Region, this enforcement action will be closed. Service of the Final Order by e-mail is effective upon the date of transmission and acknowledgment of receipt as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Gregory A. Ochs, Director, Central Region, Office of Pipeline Safety, PHMSA
Ms. Jennifer Eckels, Manager- Compliance, Tallgrass Energy, LP,
jennifer.eckels@tallgrassenergylp.com

CONFIRMATION OF 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)	
)	
Trailblazer Pipeline Company,)	CPF No. 3-2021-1003
a subsidiary of Tallgrass Energy, LP,)	
)	
Respondent.)	
)	

FINAL ORDER

From March 7, 2017 through August 31, 2017, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of Trailblazer Pipeline Company’s natural gas pipeline system from Cheyenne, Wyoming to Beatrice, Nebraska (Trailblazer). Trailblazer, a subsidiary of Tallgrass Energy, LP, (Tallgrass, or collectively, Respondent) has an approximately 450-mile-long pipeline that interconnects with large interstate natural gas pipelines that transport gas to major consumer markets in the upper Midwest and Northeast.¹ Tallgrass Energy, LP, owns and operates more than 8,300 miles of natural gas pipeline and more than 850 miles of crude pipeline, as well as natural gas midstream and natural gas liquids facilities, across Wyoming, Colorado, Nebraska, Kansas, Oklahoma, Missouri, Illinois, Indiana, and Ohio.²

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated February 26, 2021, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Trailblazer had violated 49 C.F.R. §§ 192.481(b) and 192.605(a) and proposed assessing a civil penalty of \$36,600 for one of the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct one of the alleged violations.

Tallgrass responded to the Notice by letter dated March 26, 2021 (Response). Tallgrass contested one of the allegations of violation and requested a reduction in the proposed civil

¹ Violation Report, page 1, on file with PHMSA.

² Tallgrass Energy website, About Tallgrass Energy, www.tallgrassenergy.com/About.aspx; Tallgrass Energy System Map, <https://www.tallgrassenergy.com/Documents/Tallgrass System Map 11x17 v620q.pdf> (Last accessed January 24, 2022).

penalty. Tallgrass requested a hearing as well as an opportunity for informal technical discussions prior to a hearing to clarify factual issues alleged in the Notice.

On various dates between March 26, 2021 and July 27, 2021, OPS and Tallgrass engaged in informal technical discussions regarding the issues raised in the Response. As a result of those discussions, the Director issued an Amended Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Amended Notice) by letter dated July 27, 2021. The Amended Notice contained the same allegations of violation, proposed civil penalty, and proposed compliance order as the original Notice, but did not contain certain factual statements that were clarified during the informal technical discussions.

By letter dated July 30, 2021, Tallgrass withdrew its request for a hearing, stated that it was no longer contesting either of the two allegations of violation, but reiterated its request for a reduction in the proposed civil penalty (Amended Response). The Amended Response thereby authorized the entry of this Final Order without further notice.

FINDINGS OF VIOLATION

In its Amended Response, Tallgrass did not contest the allegations in the Amended Notice that it violated 49 C.F.R. Part 192, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.481(b), which states:

§ 192.481 Atmospheric corrosion control: Monitoring.

(a)....

(b) During inspections the operator must give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water.

The Notice alleged that Respondent violated 49 C.F.R. § 192.481(b) by failing to give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water. Specifically, the Notice alleged that Tallgrass failed to inspect for atmospheric corrosion (AC) at pipe supports at the 601 Compressor Station, Cheyenne Station/TB1 pig launchers, NNG Gage interconnect, and NGPL Gage interconnect. The Notice further alleged that Tallgrass also failed to inspect for AC under thermal insulation at the 601 Compressor Station.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.481(b) by failing to give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a), which states in relevant part:

§ 192.605 Procedural manual of operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response....

The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a) by failing to follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. Specifically, the Notice alleged that Tallgrass failed to follow its Operations and Maintenance (O&M) manual procedure O&M 301. The Notice alleged further that O&M 301 referenced form OM300-01 Automatic Valve Service Report but that Respondent's records indicated that three different forms were used for valve service reporting in 2015 and 2016.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.605(a) by failing to follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.³

In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; any effect that the penalty may have on its ability to continue doing business; the good faith of Respondent in attempting to comply with the pipeline safety regulations; and self-disclosure or actions to correct a violation prior to discovery by PHMSA. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$36,600 for the violation of Item 1, cited above.

Item 1: The Notice proposed a civil penalty of \$36,600 for Respondent's violation of 49 C.F.R. § 192.481(b), for failing to give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water.

³ These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223.

In its Response and Amended Response, Tallgrass requested a reduction in the civil penalty based on a modification of the gravity factor. Tallgrass argued that the gravity factor should be reduced from a factor of seven to a factor of one because pipeline safety was minimally affected.⁴ In support of this argument, Tallgrass referenced photos in Exhibit A-1 of the Amended Notice and argued that the locations cited in the Amended Notice only had signs of “rust and discoloration” not signs of wall loss, peeling, or pitting.⁵ Tallgrass also pointed to PHMSA guidance which provides that rust is not indicative of active corrosion where there are no signs of coating deterioration, metal loss, or pitting.⁶

In addition, Tallgrass discussed the actions it had taken since the 2017 inspection.⁷ Specifically, Tallgrass noted that it had installed Fiberglass Reinforced Plastic at the locations identified in the Amended Notice, with the exception of the NNG meter run which it plans to replace with an ultrasonic meter, and observed no signs of active corrosion, metal loss, or pitting during the installation process.⁸ Tallgrass stated that it also installed inspection ports in the thermal insulation at the 601 Compressor Station so that the pipe under thermal insulation may be inspected for corrosion.⁹ Lastly, Tallgrass averred that if any of the locations in the Amended Notice developed active corrosion, it would have been promptly identified and remediated.¹⁰ In light of the aforementioned factors, Tallgrass request that the gravity factor, and thereby the penalty, be reduced.

I will address Respondent’s arguments in reverse order. I acknowledge the various actions Respondent has taken; however, I do not find that post-inspection corrective actions warrant the reduction of the civil penalty.¹¹

⁴ Gravity considers the severity of the violation. A gravity factor of seven is for violations that did not occur within a high consequence area (HCA) or “could affect” HCA, and were not within an area required to be covered by a gas distribution system’s integrity management program. A gravity factor of one is for violations in which pipeline safety was minimally affected.

⁵ Response, at 2 citing PHMSA Exhibit A-1, at pgs. 1-6, 21, on file with PHMSA.

⁶ Response, at 2 citing definition of atmospheric corrosion in PHMSA Part 192 Corrosion Enforcement Guidance at pg. 121 of 161 (Dec. 7, 2015), (“Atmospheric Corrosion is an area of metal loss due to general corrosion, localized corrosion pitting, or peeling scale on the steel surface that has damaged the pipe. Surface oxide is corrosion and if allowed to continue may affect the safe operation of the pipeline at some point in the future. Oxidation (or “light surface oxide”) can be defined as the slow rusting of pipe which is not yet considered to be atmospheric corrosion because there is no evidence of metal loss at this time.”), available at https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/docs/Corrosion_Enforcement_Guidance_Part192_12_7_2015.pdf.

⁷ Response, at 2.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ See, *In the Matter of Phillips 66 Pipeline, LLC*, CPF No. 3-2019-5006, available at https://primis.phmsa.dot.gov/comm/reports/enforce/documents/320195006/320195006_Final%20Order_05112020.pdf (Last accessed March 1, 2022).

Concerning Respondent's argument that the gravity factor should be reduced because active corrosion was not present, I am unconvinced that a penalty reduction is warranted. The Violation Report alleged that pipeline safety had been compromised in an area other than a high consequence area and this allegation is supported by color photographs clearly showing staining from atmospheric corrosion. Further, it is undisputed that Tallgrass failed to give particular attention to specific locations, many of which are not viewable to the naked eye without removing support or thermal insulation, for purposes of determining the presence of AC. The regulation is preventative, designed to ensure that atmospheric corrosion does not develop. Moreover, as I have previously stated "atmospheric corrosion inspections are a fundamental part of basic pipeline maintenance and that ensuring that *any* surface corrosion is detected and addressed before becoming a potential integrity threat is a key part of safely operating a pipeline." (Emphasis added).¹² For these reasons, I find that there is no justification to reduce the gravity factor and therefore no justification to reduce the proposed penalty.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$36,600 for violation of 49 C.F.R. §192.481(b)

Payment of the civil penalty must be made within 20 days of receipt of the Final Order. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to be made by wire transfer through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMK-325), Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 S MacArthur Blvd, Oklahoma City, Oklahoma 79169. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the \$36,600 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a district court of the United States.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 2 in the Notice for violations of 49 C.F.R. §192.605(a). Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

¹² See, *In the Matter of Express Holdings, LLC, Decision on Reconsideration*, CPF No. 3-2020-5005, available at [https://primis.phmsa.dot.gov/comm/reports/enforce/documents/320205005/320205005_Decision%20on%20Petition%20for%20Reconsideration_07262021_\(16-153538S\)_text.pdf](https://primis.phmsa.dot.gov/comm/reports/enforce/documents/320205005/320205005_Decision%20on%20Petition%20for%20Reconsideration_07262021_(16-153538S)_text.pdf), (Last accessed March 1, 2022).

1. With respect to the violation of § 192.605(a) (**Item 2**), Respondent must re-inspect all line break or automatic shutoff valves, verify the correct pressure drop and maintenance activities per a PHMSA approved procedure utilizing PHMSA approved standardized forms. This work must be completed within six months of receipt of the Final Order. All records and outcomes of this required activity must be provided to PHMSA within one month after all have been completed.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

PHMSA requests that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. It is requested that these costs 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.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000, as adjusted for inflation (*see* 49 C.F.R. § 190.223), for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address, no later than 20 days after receipt of this Final Order by Respondent. Any petition submitted must contain a statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The filing of a petition automatically stays the payment of any civil penalty assessed. The other terms of the order, including corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

March 16, 2022

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued