

September 21, 2017

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

Re: CPF No. 5-2015-5019

Dear Mr. Armstrong:

Enclosed please find the Final Order issued in the above-referenced case. It withdraws an allegation of violation, makes a finding of a violation, and finds that Plains Pipeline, LP, a subsidiary of Plains All American Pipeline, LP, has completed the actions specified in the Notice to comply with the pipeline safety regulations. Therefore, this case is now closed. Service of the Final Order by certified mail is deemed effective 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: Director, Western Region, Office of Pipeline Safety, PHMSA
Mr. Troy Valenzuela, Vice President, Environmental Health and Safety,
Plains Pipeline, LP, 333 Clay Street, Suite 1600, Houston, TX 77002

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

In the Matter of)
)
Plains Pipeline, LP,)
a subsidiary of Plains All American Pipeline, LP,) **CPF No. 5-2015-5019**
)
Respondent.)
)

FINAL ORDER

During August 19-22, 2013, September 16-19, 2013, and September 30-October 4, 2013, 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 Plains Pipeline, LP’s (Plains or Respondent) Line 901 and Line 903 crude-oil pipeline system in Bakersfield, California. Plains is an operating subsidiary of Plains All American Pipeline, LP,¹ which engages in the pipeline transportation of crude oil, refined products, natural gas, and natural gas liquids in the United States and Canada.²

As a result of this inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated September 11, 2015, a Notice of Probable Violation and Proposed Compliance Order (Notice). The Notice also included warnings pursuant to 49 C.F.R § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Plains had violated 49 C.F.R. §§ 195.310(a) and 195.452(i)(1), and proposed ordering Respondent to take certain measures to correct the alleged violations. The Notice also proposed finding that Respondent had committed certain other probable violations of 49 C.F.R. Part 195 and warned Respondent to take appropriate corrective action to address them or face possible enforcement action.

Plains responded to the Notice by letter dated October 12, 2015 (Response). Plains contested the alleged violation of § 195.310(a), offered additional information in response to the Notice, and requested that the proposed compliance order be withdrawn. Plains did not contest the alleged violation of § 195.452(i)(1), but provided additional information in response to the Notice and

¹US SEC Form 10-K, Plains All American Pipeline, LP, *available at* http://www.edgarexplorer.com/EFX_dll/EdgarPro.dll?FetchFilingHTML1?SessionID=H4jwq3gtDXw9Z-9&ID=11876486 (last accessed June 9, 2017).

² Plains All American Pipeline, LP, *website, available at* <https://www.plainsallamerican.com/what-we-do> (last accessed June 9, 2017).

requested that the proposed compliance order be withdrawn. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 195, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.310(a), which states:

§ 195.310 Records.

(a) A record must be made of each pressure test required by this subpart, and the record of the latest test must be retained as long as the facility tested is in use.

The Notice alleged that Respondent violated 49 C.F.R. § 195.310(a) by failing to maintain records of past pressure tests required under § 195.307. Specifically, the Notice alleged that Plains did not maintain adequate documentation of pressure tests as part of its baseline assessment plan for its seven above-ground breakout tanks at the Pentland Station in Kern County, California. During the inspection, the Notice alleged that Plains could not present evidence of past pressure tests for the above-ground breakout tanks. Plains later provided Tracer Tight Leak Tests records from 1995, but the Notice alleged these documents did not demonstrate that pressure tests had been performed in accordance with § 195.307.

In its Response, Plains stated that it was not required to have records of pressure tests for the above-ground breakout tanks at the Pentland Station as part of its baseline assessment plan. Plains argued that baseline assessment plan requirements did not apply to the tanks pursuant to a PHMSA Frequently-Asked Question (FAQ), which stated that baseline integrity assessment requirements under § 195.452 only applied to line pipe and not breakout tanks.

Plains also argued that pressure tests pursuant to § 195.307 were not required for the above-ground breakout tanks at Pentland Station because they were placed into service during the period of 1988 – 1993, which was prior to the October 2, 2000 effective date specified in § 195.307.

Plains stated that although it could not locate full test records for each tank, pressure tests were reportedly performed on each tank following its installation. As stated above, Plains provided to OPS certain Tracer Tight Leak Tests records from the prior operator and noted that American Petroleum Institute (API) Standard 653 inspections had been regularly performed on the tanks without major alterations/repairs required.

Analysis

Section 195.310 requires operators to make a record of each pressure test required by subpart E (Pressure Testing, §§ 195.300—195.310) and retain the record of the latest test as long as the

facility is in use. The Notice alleged that § 195.307 pressure-test records for breakout tanks were required to be a part of Respondent's baseline assessment plan. The elements to be included in an operator's written baseline assessment plan are identified in § 195.452(c). Section 195.452(c)(i)(B) requires pressure tests conducted in accordance with subpart E to be included in an operator's baseline assessment plan. In clarifying the applicability of this requirement, however, PHMSA issued guidance that stated: "[B]aseline integrity assessment and periodic re-assessment requirements apply only to line pipe."³ Consequently, Plains was not required to have pressure-test records as part of its baseline assessment plan for the seven breakout tanks at Pentland Station.

In addition, pressure tests are not required under § 195.307 for breakout tanks first placed into service before October 2, 2000, unless the tank has had a major alteration. The breakout tanks at Pentland Station were first placed in service before October 2, 2000, and Plains noted in its Response that API 653 inspections were regularly performed on the tanks with no major alterations/repairs required. Therefore, pressure tests pursuant to § 195.307 were not required for the Pentland Station breakout tanks.

Therefore, based on the foregoing, I hereby order that Item 1 be withdrawn.⁴

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(i)(1), which states:

§ 195.452 Pipeline integrity management in high consequence areas.

(a) ...

(i) *What preventive and mitigative measures must an operator take to protect the high consequence area?*

(1) *General requirements.* An operator must take measures to prevent and mitigate the consequences of a pipeline failure that could affect a high consequence area. These measures include conducting a risk analysis of the pipeline segment to identify additional actions to enhance public safety or environmental protection. Such actions may include, but are not limited to, implementing damage prevention best practices, better monitoring of cathodic protection where corrosion is a concern, establishing shorter inspection intervals, installing EFRDs on the pipeline segment, modifying the systems that monitor pressure and detect leaks, providing additional training to personnel on response procedures, conducting drills with local emergency responders and adopting other management controls.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(i)(1) by failing to maintain adequate documentation of its preventative and mitigative (P&M) evaluations for specific

³ PHMSA's Hazardous Liquid Integrity Management: FAQs, Question 2.1, <https://primis.phmsa.dot.gov/iim/faqs.htm>.

⁴ Though this alleged violation is withdrawn, it should be noted that Plains proffered to conduct an additional static-hold test on each tank for which hydrotest records could not be located. By letter dated January 25, 2016, Plains indicated that it had completed static-hold testing on each of its seven breakout tanks at Pentland Stations between October 20 and 27, 2015.

pipeline segments. Specifically, the Notice alleged that Plains did not maintain adequate documentation of its P&M evaluations prior to the 2013 calendar year for the “Sisquoc to Pentland” and “Pentland to Emidio” pipeline segments. Plains acknowledged, in an email dated March 25, 2014, that it was unable to locate the 2013 P&M evaluation for the above-referenced pipeline segments. Without the P&M evaluations, the Notice alleged, Plains was unable to demonstrate that it had taken measures to prevent and mitigate the consequences of a pipeline failure that could affect a high consequence area, as required by § 195.452(i)(1).

In its Response, Plains did not contest this allegation of violation. Accordingly, based upon a review of all the evidence, I find that Respondent violated 49 C.F.R. § 195.452(i)(1) by failing to maintain adequate documentation of its P&M evaluations prior to 2013 for the “Sisquoc to Pentland” and “Pentland to Emidio” pipeline segments.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1 and 2 in the Notice for the violation of 49 C.F.R. §§ 195.310(a) and 195.452(i)(1), respectively. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. Since Item 1 was withdrawn, the proposed compliance order addressing that is not included.

For Item 2, the Director indicated that Respondent had re-evaluated its P&M measures for the “Sisquoc to Pentland” and “Pentland to Emidio” pipeline segments and provided updated P&M measures to PHMSA. Accordingly, I find that compliance has been achieved with respect to this violation and therefore the compliance terms proposed in the Notice are not included in this Order.

WARNING ITEMS

With respect to Items 3, 4, 5, and 6, the Notice alleged probable violations of Part 195 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 195.452(i)(1) (**Item 3**) — Respondent’s alleged failure, in High Consequence Areas (HCA) where Plains does not take additional P&M measures, to adequately

document consideration of P&M measures or its justification for not implementing additional P&M measures in HCAs.

49 C.F.R. § 195.403(b) **(Item 4)** — Respondent’s alleged failure to adequately document its annual review of its emergency response training program. OPS found a lack of documentation demonstrating an adequate review of the training program objectives set forth in § 195.403(a) or the decision-making process for changes to its training program. OPS noted that all simulated and real emergencies should be self-critiqued with deficiencies identified and recommendations made and followed up on.

49 C.F.R. § 195.403(c) **(Item 5)** — Respondent’s alleged failure to have adequate documentation to demonstrate that supervisors maintained a thorough knowledge of that portion of the emergency response procedures established under § 195.402 for which they are responsible for ensuring compliance. Plains’ supervisors were present at emergency response training drills; however, there were no records to show or evaluate individual supervisor knowledge in order to verify that each was knowledgeable about the procedures for which they are responsible.

49 C.F.R. § 195.507 **(Item 6)** — Respondent’s alleged failure to maintain sufficient records to demonstrate compliance with Subpart G, Operator Qualification. Plains did not document which qualified contractors performed each covered task on a daily basis. Each project file had a written list of all qualified individuals, but there was no written documentation to show who performed each task on a day-to-day basis.

Plains responded to the warning items and presented information in its Response showing that it had taken certain actions to address the cited items. Pursuant to § 190.205, an adjudication is not conducted for warnings to determine if a violation occurred. If OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.243, Respondent has a right to submit a Petition for Reconsideration of this Final Order. The petition must be sent to: 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. PHMSA will accept a petition received no later than 20 days after receipt of service of this Final Order by the Respondent, provided it contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. Unless the Associate Administrator, upon request, grants a stay, the terms and conditions of this Final Order are effective upon receipt of service in accordance with 49 C.F.R. § 190.5.

September 21, 2017

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued