



U.S. Department
Of Transportation
**Pipeline and
Hazardous Materials
Safety Administration**

820 Bear Tavern Road, Suite 103
West Trenton, NJ 08628
609.989.2171

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

OVERNIGHT EXPRESS MAIL

January 26, 2015

Thomas S. Collier
Vice President, Performance Assurance & Asset Integrity
Buckeye Partners, L.P.
Five TEK Park
9999 Hamilton Boulevard
Breinigsville, PA 18031

CPF 1-2015-5001

Dear Mr. Collier:

From September 17 - 27, 2013, inspectors from the New York State Department of Public Service (NYSDPS), acting as agents for the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected Buckeye Partners, L.P.'s (Buckeye) pipeline facilities in Auburn, New York.

As a result of the inspection, 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 violations are:

1. §195.410 Line markers.

(a) Except as provided in paragraph (b) of this section, each operator shall place and maintain line markers over each buried pipeline in accordance with the following:

(1) Markers must be located at each public road crossing, at each railroad crossing, and in sufficient number along the remainder of each buried line so that its location is accurately known.

Buckeye failed to properly maintain line markers, in sufficient quantity and location, so that the pipeline location is accurately known. Specifically, NYSDPS noted the following areas on Old Indian Opening Road in the Town of Lenox in Madison County, New York where there were insufficient line markers to accurately depict the location of the pipeline:

1. On Old Indian Opening Road, between the end of the dead end road looking southeast, and towards the New York State Thruway.
2. On the end of Old Indian Opening Road looking back towards the northwest and back towards the east.

The NYSDPS inspectors observed the conditions along the right-of-way (ROW) and took photographs. This probable violation is a repeat violation of CPF# 1-2013-5003, Item # 1.

2. §195.410 Line markers.

a) Except as provided in paragraph (b) of this section, each operator shall place and maintain line markers over each buried pipeline in accordance with the following: . . .

(2) The marker must state at least the following on a background of sharply contrasting color: . . .

(ii) The name of the operator and a telephone number (including area code) where the operator can be reached at all times.

Buckeye failed to properly maintain a line marker over a buried pipeline with a telephone number (including area code) where it can be reached at all times.

During this inspection, the NYSDPS inspector observed a line marker over the 701 line on the north side of Virgil Creek Road that stated two different telephone numbers. The NYSDPS inspector placed a phone call to Buckeye by dialing the telephone numbers that were stated on the line marker. The NYSDPS's phone calls were disconnected after a few minutes. No one answered either phone call. The NYSDPS inspector discovered that said telephone numbers were out-of-date. The NYSDPS noted the correct telephone number that should be stated on that line marker.

The NYSDPS inspectors observed the conditions along the ROW and took photographs.

This probable violation is a repeat violation of CPF# 3-2007-5026, Item # 3.

3. §195.412 Inspection of rights-of-way and crossings under navigable waters.

(a) Each operator shall, at intervals not exceeding 3 weeks, but at least 26 times each calendar year, inspect the surface conditions on or adjacent to each pipeline right-of-way. Methods of inspection include walking, driving, flying or other appropriate means of traversing the right-of-way.

Buckeye failed to adequately inspect the surface conditions on or adjacent to each pipeline ROW at intervals not exceeding 3 weeks, but at least 26 times each calendar year. Specifically, Buckeye failed to adequately inspect the surface conditions on, or adjacent to, the pipeline ROW along sections of its pipelines #802 and #803.

It appeared that there has been uncontrolled growth on some parts of the ROW for a long period of time. There were low growing plants and shrubs that grew to a height that obscured the ROW surface. The pipeline runs parallel to the road under the trees. Buckeye personnel stated that the aerial inspection method is the only inspection method used to inspect the surface conditions along the ROW in these areas. Based on the NYSDPS inspector's observations, Buckeye did not maintain and clear the ROW of excessive vegetation growth, including the extent of the tree canopy, in order to allow adequate aerial inspection of the ROW.

The NYSDPS inspectors observed the conditions along the ROW and took photographs.

This probable violation is a repeat violation of CPF# 1-2013-5003, Item # 3.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$200,000 per violation per day the violation persists up to a maximum of \$2,000,000 for a related series of violations. For violations occurring prior to January 4, 2012, the maximum penalty may not exceed \$100,000 per violation per day, with a maximum penalty not to exceed \$1,000,000 for a related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the

above probable violations and has recommended that you be preliminarily assessed a civil penalty of **\$89,400** as follows:

<u>Item number</u>	<u>PENALTY</u>
2	\$44,600
3	\$44,800

Proposed Compliance Order

With respect to item numbers 1 and 3 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Buckeye Partners, L.P. 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 1-2015-5001** and for each document you submit, please provide a copy in electronic format whenever possible, and please whenever possible provide a signed PDF copy in electronic format. Smaller files may be e-mailed to Byron.Coy@dot.gov. Larger files should be sent on a CD accompanied by the original paper copy to the Eastern Region Office.

Additionally, if you choose to respond to this (or any other case), please ensure that any response letter pertains solely to one CPF case number.

Sincerely,

Byron Coy, PE
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration

Cc: Kevin Speicher, NYSDPS

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 Buckeye Partners, L.P. (Buckeye) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Buckeye with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to Buckeye's failure to properly install and maintain line markers in sufficient quantity and location so that the location of the buried pipeline is accurately known, Buckeye must re-check and ensure the accurate location of the buried pipeline at the road crossing and along the right-of-way (ROW), on Old Indian Opening Road, between the end of the dead end road looking southeast, and towards the New York State Thruway; and, on the end of Old Indian Opening Road looking back to the northwest and back towards the east. Once the pipeline is located, install line markers so that the location of the buried pipeline is accurately known.
2. In regard to Item Number 3 of the Notice pertaining to Buckeye's failure to adequately inspect the surface conditions on or adjacent to each pipeline ROW, Buckeye must implement one or more appropriate method(s)¹ that will allow an adequate inspection of the pipeline ROW along sections of its pipelines #802 and #803.
3. All documentation demonstrating compliance with each of the items outlined in this Compliance Order must be submitted to Byron Coy, P.E., Director, Eastern Region, Pipeline and Hazardous Materials Safety Administration, 820 Bear Tavern Road, Suite 103, West Trenton, NJ 08628 within 120 days of receipt of the Final Order.
4. It is requested (not mandated) that Buckeye maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Byron Coy, P.E., Director, Eastern Region, Pipeline and Hazardous Materials Safety Administration. 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.

¹ See, 49 C.F.R. §195.412(a).