U.S. Department
of Transportation

**Pipeline and
Hazardous Materials
Safety Administration**

840 Bear Tavern Road, Suite 300
West Trenton, NJ 08628
609.771.7800

NOTICE OF PROBABLE VIOLATION
and
PROPOSED CIVIL PENALTY

OVERNIGHT EXPRESS DELIVERY

January 21, 2020

Clark C. Smith
Chairman, President & CEO
Buckeye Partners, LP
Five TEK Park
9999 Hamilton Boulevard
Breinigsville, PA 18031

CPF 1-2020-6001

Dear Mr. Smith:

From July 23 – 26, 2018, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), and the Florida Public Services Commission (FL-PSC), pursuant to Chapter 601 of 49 United States Code (U.S.C.), responded to and conducted an investigation into an accident that occurred on Buckeye Partners, LP's (Buckeye) PE904MI hazardous liquid pipeline (Florida Everglades Pipeline) in Miami, Florida.

The investigation revealed that on July 23, 2018, at 11:14 am (EST), a contractor installing a water line dug into Buckeye's Florida Everglades Pipeline near the corner of NW 36th Street and NW 67th Avenue in Miami. The pipeline delivers jet fuel to the Miami International Airport. The company's Supervisory Control and Data Acquisition (SCADA) system identified a pressure drop and the controller shut down the pipeline at 11:17 am. Buckeye closed main line block valves and instituted its emergency response plan. Buckeye notified the National Response Center (NRC Report # 1219243) of the spill at 11:54 am (EST) the same day. The quantity of jet fuel spilled was 245 barrels. There were no fires, evacuations, injuries or deaths associated with the accident.

Due to the damage and subsequent repair to the pipeline, Buckeye supplied the airport with jet fuel by truck from the Fort Lauderdale Airport. After jet fuel clean-up and pipeline repair, the pipeline was returned to service three days later, on July 26, 2018. According to Buckeye's 30-Day Accident Report filed with PHMSA, the company determined that the root cause of the accident was its own "failure to follow procedures for locating and marking a pipeline," which resulted in

the erroneous marking of its pipeline and subsequent third-party strike.

As a result of the investigation, PHMSA alleges that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

1. **§ 195.402 Procedural manual for operations, maintenance, and emergencies.**
   (a) *General.* Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

Buckeye failed to follow its own manual of written procedures for conducting normal operations and maintenance activities. Specifically, Buckeye failed to follow Sections 6.3.2 and 6.3.3 of its Damage Prevention Procedure Manual, dated 12/29/17 (DP Manual), by failing to utilize the conductive method[1] to locate its pipeline, and failing to use a probe to search for and verify the pipeline's location after it had electronically located the line. The locating and subsequent marking of Buckeye's Florida Everglades Pipeline was performed in response to multiple one-call tickets requested on June 15 and July 18, 2018 by a third-party contractor for a water-line installation.

Sections 6.3.2 and 6.3.3 of Buckeye's DP Manual state:

> *"6.3.2 Use a line locator to locate the line you are identifying. In accordance with Section 6.4, use the conductive method to locate the line. If it is not possible to use this method, then proceed by using the inductive method.*
>
> *6.3.3 Once the line has been electronically located and an approximate depth has been determined with the line locator using the conductive or inductive method, use a probe to search for the line and verify that the pipeline location is correct."*

As Buckeye explained in its 30-day Accident Report,[2] dated 8/22/2018, and subsequent 10/9/2018 Final Report:

> *"The root cause was determined to be the failure to follow procedures for locating and marking a pipeline led to the erroneous marking of Line 904. Employee failed to use the conductive*

[1] Conductive locating with a line locator involves directly wiring a transmitter to the utility line or other conductor being located. The alternative method of inductive locating involves inducing a signal via a transmitter's internal or external antenna onto the utility line or other conductor. Buckeye's procedures require the conductive method to be used unless determined to not be possible.

[2] PHMSA Form F7000.1 Accident Report, which operators must file within 30 days of an accident, in accordance with § 195.54(a).

method and failed to perform probe verification of the pipeline..."

Therefore, Buckeye failed to follow its DP Manual procedures, Sections 6.3.2 and 6.3.3, when it failed to utilize the conductive method to locate its pipeline, and failed to use a probe to search for and verify the pipeline location after it had electronically located the line.

2. § 195.404 Maps and records.

(a) Each operator shall maintain current maps and records of its pipeline systems that include at least the following information;

(1) Location and identification of the following pipeline facilities; ...

(vi) Rights-of-way; ...

Buckeye failed to maintain current maps and records of its pipeline system, including the location of its pipeline rights-of-way. Specifically, Buckeye failed to maintain current maps of its Florida Everglades Pipeline right-of-way.

During the investigation, the FL-PSC investigator reviewed Buckeye's alignment sheets for its Florida Everglades Pipeline in the area of the accident. Buckeye's alignment sheet number 022, mapping 1547+00 to 1637+30 of the Florida Everglades Pipeline, generated on 6/23/16, depicted non-existent 90-degree elbows in the pipeline approximately halfway between 1569+77 and 1579+77. Buckeye confirmed during the accident investigation that the pipeline gradually changes direction along this section of the pipeline and does not include 90-degree elbows. The accident location, reported as 1573+40 on Buckeye's 30-day Accident Report, is within this inaccurately-mapped section of the Florida Everglades Pipeline.

Therefore, Buckeye failed to maintain current maps and records of its Florida Everglades Pipeline right-of-way.

3. § 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 place and maintain line markers in sufficient number over a buried pipeline so that its location could be accurately known.

During the accident investigation, the FL-PSC inspector observed that a line marker was not accurately placed over Buckeye's Florida Everglades Pipeline. A line marker was present on the opposite side of a fence adjacent to the location of the accident, approximately 6-8 feet offset from the actual location of the pipeline. The marking flags for the Florida Everglades Pipeline, placed in response to the one-call ticket for the water-line installation work being performed, aligned directly with this inaccurately-located line marker.

Therefore, Buckeye failed to place and maintain line markers over its Florida Everglades Pipeline

so that its location could be accurately known.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed $213,268 per violation per day the violation persists, up to a maximum of $2,132,679 for a related series of violations. For violation occurring on or after November 2, 2015 and before November 27, 2018, the maximum penalty may not exceed $209,002 per violation per day, with a maximum penalty not to exceed $2,090,022. For violations occurring prior to November 2, 2015, the maximum penalty may not exceed $200,000 per violation per day, with a maximum penalty not to exceed $2,000,000 for a 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 $209,002 as follows:

Item number	PENALTY
1	$209,002

Warning Items

With respect to items 2 and 3, we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to promptly correct these items. Failure to do so may result in additional enforcement action.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement Proceedings*. Please refer to this document and note the response options. All material submitted in response to this enforcement action may be 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).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. 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. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from the receipt of this Notice. This period may be extended by written request for good cause.

Please submit all correspondence in this matter to Robert Burrough, Director, PHMSA Eastern Region, 840 Bear Tavern Road, Suite 300, West Trenton, New Jersey 08628. Please refer to **CPF 1-2020-6001** on each document you submit, and whenever possible provide a signed PDF copy in electronic format. Smaller files may be emailed to robert.burrough@dot.gov. Larger files should be sent on a USB flash drive 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,

Robert Burrough
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration

Enclosure: *Response Options for Pipeline Operators in Enforcement Proceedings*