



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

233 Peachtree Street Ste. 600
Atlanta, GA 30303

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

January 31, 2013

Mr. Steve Pankhurst
Business Unit Leader
Tri-States NGL Pipeline LLC
150 West Warrenville Road
Naperville, IL 60563

CPF 2-2013-5002

Dear Mr. Pankhurst:

On June 18-22, 2012, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Southern Region, Office of Pipeline Safety inspected the Tri-States NGL Pipeline, LLC (Tri-States) procedures and records at your Moss Point, Mississippi office and pipeline facilities in Alabama, Mississippi, and Louisiana, pursuant to Chapter 601 of 49 United States Code.

As a result of the inspection, it appears that Tri-States has committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violation is:

- 1. §195.412 Inspection of rights-of-way and crossings under navigable waters.
... (b) Except for offshore pipelines, each operator shall, at intervals not exceeding 5 years, inspect each crossing under a navigable waterway to determine the condition of the crossing.**

Tri-States did not inspect each crossing under a navigable waterway to determine the condition of the crossing at intervals not exceeding 5 years. Records reviewed during the inspection showed that the inspection of three crossings under navigable waterways exceeded the 5 year interval required by the regulation. At the time of the inspection Tri-States provided records showing that:

- The Pascagoula River was inspected on September 14, 2005, and November 17, 2010, exceeding the 5 year interval by 2 months and 3 days.
- The Pearl River was inspected on September 29, 2005, and November 16, 2010, exceeding the 5 year interval by 1 month and 18 days.

- Lake Pontchartrain was inspected on September 11, 2005, and October 6, 2010, exceeding the 5 year interval by 25 days.

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 violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$10,300 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$10,300

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. All material submit 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). 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 2-2013-5002** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,



Wayne T. Lemoi
Director, Office of Pipeline Safety
PHMSA Southern Region

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