



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

901 Locust Street, Suite 462
Kansas City, MO 64106-2641

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

August 23, 2011

Mr. Tom Saunders
PostRock (KPC) Pipeline, LLC
9520 North May Avenue
Suite 300
Oklahoma City, Oklahoma 73120

Dear Mr. Saunders:

CPF 3-2011-1014

On October 18-22, 25-28, and November 2-5, 2010, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected your records and facilities in Olathe, Kansas.

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. §192.465 External corrosion control: Monitoring.

(d) Each operator shall take prompt remedial action to correct any deficiencies indicated by the monitoring.

PostRock did not take prompt remedial action to correct deficiencies indicated by annual corrosion control monitoring. PHMSA discovered during the records review that between the 2006 and 2010 calendar years there were 12 test station locations on PostRock's 8-inch P-80 pipeline that were either damaged or exhibited cathodic protection readings that did not meet minimum voltage criteria found in Appendix B to Part 192. These deficiencies remained uncorrected on one or more subsequent annual inspections as shown by the table below.

Milepost	Deficiency	Subsequent annual inspections remaining uncorrected
105 38+52	low cathodic potentials	2 years (2009-2010)
130 01+45	low cathodic potentials	1 year (2009)
140 10+23	low cathodic potentials	3 years (2008-2010)
141 15+82	low cathodic potentials	3 years (2008-2010)
255 18+25	broken test station	4 years (2007-2010)
291 06+28	broken test station	1 year (2006)
296 40+88	low cathodic potentials	1 year (2006)
297 23+80	broken test station	1 year (2006)
299 20+95	low cathodic potentials	1 year (2007)
301 15+27	broken test station	1 year (2006)
302 45+34	broken test station	1 year (2006)
354 37+15	broken test station	1 year (2007)

2. **§192.476 Internal corrosion control: Design and construction of transmission line.**

(c) *Change to existing transmission line.* When an operator changes the configuration of a transmission line, the operator must evaluate the impact of the change on internal corrosion risk to the downstream portion of an existing onshore transmission line and provide for removal of liquids and monitoring of internal corrosion as appropriate.

PostRock did not perform an evaluation of the impact of reconfiguring its P-100, P-110, P-30, and P-40 pipelines prior to placing the pipelines into service for bidirectional flow. PHMSA discovered during the records inspection that PostRock had reconfigured the pipelines for reverse flow in September, 2010; however, no evaluation had been initiated. Subsequent to the inspection, PostRock agreed to perform additional internal corrosion monitoring.

3. **§192.481 Atmospheric corrosion control: Monitoring.**

(a) Each operator must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows:

If the pipeline is located:	Then the frequency of inspection is:
Onshore.....	At least once every 3 calendar years, but with intervals not exceeding 39 months
Offshore.....	At least once each calendar year, but with intervals not exceeding 15 months

Between the 2006 and 2010 calendar years (CY) PostRock did not perform atmospheric corrosion inspections on 148 pipe locations exposed to the atmosphere within the 39 month maximum interval. PHMSA found during the records inspection that many atmospheric corrosion reports were missing. Subsequent to PHMSA's inspection, PostRock provided an itemized log of completed atmospheric corrosion inspections. The log showed that 82 valves and 66 pipe spans had not been inspected within the 3 CY frequency. Many inspections exceeded the 39 month maximum interval by 1 or more full years because they had last been inspected in CY 2002, 2003, or 2004.

4. **§192.479 Atmospheric corrosion control; General.**

(a) Each operator must clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere, except pipelines under paragraph (c) of this section.

PostRock did not clean and coat four locations where its pipelines were exposed to the atmosphere at creek crossings. PostRock did not perform tests or investigations to demonstrate that the atmospheric corrosion would not affect the safe operation of the pipeline per the exception in §192.479(c). During the field verification the exposed pipe at four creek crossings were observed by PHMSA to be in a condition that was not coated with a suitable material to prevent atmospheric corrosion. The following locations were observed to have exhibited atmospheric corrosion: MP 179 on the P-40 pipeline, MP 190 on the P-30 pipeline, MP 319 on the P-50 pipeline, and MP 104 on the P-20 pipeline.

5. **§192.605 Procedural manual for operations, maintenance, and emergencies**

(c) Abnormal operation. For transmission lines, the manual required by paragraph (a) of this section must include procedures for the following to provide safety when operating design limits have been exceeded:

(4) Periodically reviewing the response of operator personnel to determine the effectiveness of the procedures controlling abnormal operation and taking corrective action where deficiencies are found.

PostRock did not conduct reviews of its abnormal operations. PostRock personnel informed PHMSA during the records review that they did not have abnormal operations records or reviews because they never exceeded the pipeline "design limits." However, during the field inspection, PHMSA discovered recorded instances of unintended activations of safety devices, such as emergency compressor shut downs (ESD). ESD are abnormal operations; however, PostRock personnel did not regard the ESD and other safety device actuations as abnormal operations as long as the pipeline did not exceed maximum allowable operating pressure (MAOP). Exceeding "operating design limits" does not exclusively mean

exceeding MAOP/design pressure of pipe or pipeline system components. Operating design limits include all control parameters, procedures, or settings relevant to §192.605(c)(1).

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any 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 \$65,000 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$28,900
3	\$22,700
4	\$13,400

Proposed Compliance Order

With respect to item numbers 1, 3, 4 and 5 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to PostRock (KPC) Pipeline, LLC. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Items

With respect to item number 2 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 this item. Be advised that failure to do so may result in PostRock being subject to additional enforcement action.

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 3-2011-1014** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Barrett', with a large, stylized flourish at the end.

David Barrett
Director, Central Region
Pipeline and Hazardous Materials Safety Administration

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 PostRock KPC Pipeline, LLC a Compliance Order incorporating the following remedial requirements to ensure the compliance of PostRock KPC Pipeline, LLC with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to deficiencies in corrosion control monitoring on its P-80 pipeline, PostRock must identify and repair all broken test stations, and remediate known deficiencies in cathodic protection voltage criteria found through the annual corrosion control monitoring program.
A plan to accomplish this Item shall be furnished to PHMSA within 30 days of issuance of the Final Order for approval by the Director, Central Region. PostRock must complete necessary repairs as delineated in the approved plan within 90 days of the director's approval.
2. In regard to Item Numbers 3 and 4 of the Notice pertaining to the deficiencies in atmospheric corrosion monitoring and control, PostRock must accomplish the following within 30 days of issuance of the Final Order:
 - i. Assess the integrity of the pipe at the four locations outlined in Item 4 of the Notice, make necessary repairs, clean and coat the pipe at each location, and furnish to PHMSA a report of the completed actions.
 - ii. Establish a plan to identify, inspect, and perform necessary repairs to all creek crossings, spans, and pipe exposed by soil erosion according to a 12-month prioritized schedule and furnish to the Director, Central Region a copy of the plan for review.
3. In regard to Item Number 5 of the Notice pertaining to PostRock's failure to review its abnormal operations, within 90 days of the issuance of the Final Order PostRock must:
 - i. Make modifications to its Operations and Maintenance procedures so that it is clear that exceeding "operating design limits" applies to all applicable system design parameters, including unintended ESD's and any other mechanical or electrical parameters associated with §192.605(c)(1)(i) through (v). The procedures must make it clear that exceeding MAOP is not the sole criteria for determining when abnormal operations have occurred.
 - ii. Establish and maintain a specific record or log, in association with operating procedures, in order to document abnormal operations.
 - iii. Identify abnormal operations (based on the modified procedures) that have occurred within the 36 months prior to the issuance of the Final Order, and incorporate the related records into the log required by ii above.

- iv. Perform a review of the personnel responses to the abnormal operations identified in the log required by ii and iii above in order to determine the effectiveness of procedures, and supply to the Director, Central Region the results of the review. The results shall include a plan to take necessary corrective actions based on the findings of the review.
 - v. Hold training meetings as necessary so that the changes to abnormal operations procedures and documentation required by this Item are well understood by all applicable personnel, and submit a roster of all personnel who received the training to the Director, Central Region.
4. It is requested (not mandated) that PostRock maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to David Barrett, Director, Central 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.

Response Options for Pipeline Operators in Compliance Proceedings

The requirements of 49 C.F.R. Part 190, Subpart B (§§ 190.201–190.237) govern response to Notices issued by a Regional Director, Pipeline and Hazardous Materials Safety Administration (PHMSA).

Be advised that all material submitted by a respondent in response to an 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).

I. Procedures for Responding to a NOTICE OF PROBABLE VIOLATION:

Within 30 days of receipt of a Notice of Probable Violation, the respondent shall respond to the Regional Director who issued the Notice in the following way:

a. When the Notice contains a proposed CIVIL PENALTY* --

1. If you are not contesting any violations alleged in the Notice, pay the proposed civil penalty and advise the Regional Director of the payment. This authorizes PHMSA to issue an order making findings of violation and upon confirmation that the payment has been received PHMSA will close the case with prejudice to the respondent. Payment terms are outlined below;
2. If you are not contesting any violations alleged in the Notice but wish to submit written explanations, information, or other materials you believe warrant mitigation of the civil penalty, you may submit such materials. This authorizes PHMSA to make findings and to issue a Final Order assessing a penalty amount up to the amount proposed in the Notice. Refer to 49 C.F.R. § 190.225 for assessment considerations, which include the respondent's ability to pay and the effect on the respondent's ability to stay in business, upon which civil penalties are based;
3. If you are contesting one or more of the items in the Notice but are not requesting an oral hearing, submit a written response to the allegations and/or seek elimination or mitigation of the proposed civil penalty; or
4. Request a hearing as described below to contest the allegations and/or proposed assessment of a civil penalty.

b. When the Notice contains a proposed COMPLIANCE ORDER* --

1. If you are not contesting the compliance order, notify the Regional Director that you intend to take the steps in the proposed compliance order;
2. If you are not contesting the compliance order but wish to submit written explanations, information, or other materials you believe warrant modification of the proposed compliance order in whole or in part, or you seek clarification of the terms of the proposed compliance order, you may submit such materials. This authorizes PHMSA to make findings and issue a compliance order;
3. If you are contesting the proposed compliance order but are not requesting an oral hearing, submit written explanations, information, or other materials in answer to the allegations in the Notice and stating your reasons for objecting to the proposed compliance order items in whole or in part; or
4. Request a hearing as described below to contest the allegations and/or proposed compliance order items.

c. When the Notice contains a WARNING ITEM --

No written response is required. The respondent is warned that if it does not take appropriate action to correct these items, enforcement action will be taken if a subsequent inspection reveals a violation.

* Failure of the respondent to respond to the Notice within 30 days of receipt constitutes a waiver of the right to contest the allegations in the Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in the Notice without further notice to the respondent and to issue a Final Order.

II. Procedures for Responding to a NOTICE OF AMENDMENT*--

Within 30 days of receipt of a Notice of Amendment, the respondent shall respond to the Regional Director who issued the Notice in the following way:

- a. If you are not contesting the Notice, notify the Regional Director of your plans to address the inadequacies identified in the Notice;
- b. If you are not contesting the Notice but wish to submit written explanations, information, or other materials you believe warrant modification of the Notice of Amendment in whole or in part, or you seek clarification of the terms of the

Notice of Amendment, you may submit such materials. This authorizes PHMSA to make findings and issue an Order Directing Amendment;

- c. If you are contesting the Notice of Amendment but are not requesting an oral hearing, submit written explanations, information, or other materials in answer to the allegations in the Notice and stating your reasons for objecting to the Notice of Amendment items in whole or in part; or
- d. Request a hearing as described below to contest the allegations in the Notice.

* Failure of the respondent to respond to the Notice within 30 days of receipt constitutes a waiver of the right to contest the allegations in the Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in the Notice without further notice to the respondent and to issue a Final Order.

III. Procedure for Requesting a Hearing

A request for a hearing must be in writing and accompanied by a statement of the issues that the respondent intends to raise at the hearing. The issues may relate to the allegations, new information, or to the proposed compliance order or proposed civil penalty amount. Refer to 49 C.F.R. § 190.225 for assessment considerations upon which civil penalties are based. A respondent's failure to specify an issue may result in waiver of the right to raise that issue at the hearing. The respondent's request must also indicate whether or not respondent will be represented by counsel at the hearing. Failure to request a hearing in writing within 30 days of receipt of a Notice waives the right to a hearing. In addition, if the amount of the proposed civil penalty or the proposed corrective action is less than \$10,000, the hearing will be held by telephone, unless the respondent submits a written request for an in-person hearing. Complete hearing procedures can be found at 49 C.F.R. § 190.211.

IV. Extensions of Time

An extension of time to prepare an appropriate response to a Notice may be granted, at the agency's discretion, following submittal of a written request to the Regional Director. The request must indicate the amount of time needed and the reasons for the extension. The request must be submitted within 30 days of receipt of the Notice.

V. Freedom of Information Act

Any material provided to PHMSA by the respondent, and materials prepared by PHMSA including the Notice and any order issued in this case, may be considered public information and subject to disclosure under the Freedom of Information Act (FOIA). If you believe the information you are providing is security sensitive, privileged, confidential or may cause your company competitive disadvantages, please clearly identify the material and provide justification why the documents, or portions of a document, should not be released under FOIA. If we receive a request for your material, we will notify you if PHMSA, after reviewing the materials and your provided justification, determines that withholding the materials does not meet any exemption

provided under the FOIA. You may appeal the agency's decision to release material under the FOIA at that time. Your appeal will stay the release of those materials until a final decision is made.

VI. **Small Business Regulatory Enforcement Fairness Act Information**

The Small Business and Agricultural Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of the Pipeline and Hazardous Materials Safety Administration, call 1-888-REG-FAIR (1-888-734-3247) or go to http://www.sba.gov/ombudsman/dsp_faq.html.

VII. **Payment Instructions**

Civil Penalty Payments of Less Than \$10,000

Payment of a civil penalty of less than \$10,000 proposed or assessed, under Subpart B of Part 190 of the Pipeline Safety Regulations can be made by certified check, money order or wire transfer. Payment by certified check or money order (containing the CPF Number for this case) should be made payable to the "Department of Transportation" and should be sent to:

Federal Aviation Administration
Mike Monroney Aeronautical Center
Financial Operations Division (AMZ-341) P.O. Box 269039
Oklahoma City, OK 73125-4915

Wire transfer payments of less than \$10,000 may be made through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury. Detailed instructions are provided below. Questions concerning wire transfer should be directed to the Financial Operations Division at (405) 954-8893, or at the above address.

Civil Penalty Payments of \$10,000 or more

Payment of a civil penalty of \$10,000 or more proposed or assessed under Subpart B of Part 190 of the Pipeline Safety Regulations must be made wire transfer (49 C.F.R. § 89.21 (b)(3)), through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury. Detailed instructions are provided below. Questions concerning wire transfers should be directed to the Financial Operations Division at (405) 954-8893, or at the above address.

INSTRUCTIONS FOR ELECTRONIC FUND TRANSFERS

(1) <u>RECEIVER ABA NO.</u> 021030004	(2) <u>TYPE/SUB-TYPE</u> (Provided by sending bank)
(3) <u>SENDING BANK ABA NO.</u> (Provided by sending bank)	(4) <u>SENDING BANK REF NO.</u> (Provided by sending bank)
(5) <u>AMOUNT</u>	(6) <u>SENDING BANK NAME</u> (Provided by sending bank)
(7) <u>RECEIVER NAME</u> TREAS NYC	(8) <u>PRODUCT CODE</u> (Normally CTR, or as provided by sending bank)
(9) <u>BENEFICIAL (BNF) = AGENCY LOCATION CODE</u> BNF = /ALC-69-14-0001	(10) <u>REASONS FOR PAYMENT</u> Example: PHMSA - CPF # / Ticket Number/Pipeline Assessment number

INSTRUCTIONS: You, as sender of the wire transfer, must provide the sending bank with the information for blocks (1), (5), (7), (9), and (10). The information provided in Blocks (1), (7), and (9) are constant and remain the same for all wire transfers to the Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

Block #1 - RECEIVER ABA NO. - "021030004". Ensure the sending bank enters this 9-digit identification number; it represents the routing symbol for the U.S. Treasury at the Federal Reserve Bank in New York.

Block #5 - AMOUNT - You as the sender provide the amount of the transfer. Please be sure the transfer amount is punctuated with commas and a decimal point. **EXAMPLE: \$10,000.00**

Block #7 - RECEIVER NAME - "TREAS NYC". Ensure the sending bank enters this abbreviation. It must be used for all wire transfers to the Treasury Department.

Block #9 - BENEFICIAL - AGENCY LOCATION CODE - "BNF=/ALC-69-14-0001". Ensure the sending bank enters this information. This is the Agency Location Code for the Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

Block #10 - REASON FOR PAYMENT - "AC-payment for PHMSA Case # / To ensure your wire transfer is credited properly, enter the case number/ticket number or Pipeline Assessment number, and country."

NOTE: A wire transfer must comply with the format and instructions or the Department cannot accept the wire transfer. You as the sender can assist this process by notifying the Financial Operations Division (405) 954-8893 at the time you send the wire transfer.

February 2009