

June 27, 2019

Mr. Willie Chiang
Chief Executive Officer and Director
Plains All American Pipeline, LP
333 Clay Street, Suite 1600
Houston, Texas 77002

Re: CPF No. 3-2018-1006

Dear Mr. Chiang:

Enclosed please find the Final Order issued in the above-referenced case to your subsidiary, PAA Natural Gas Storage, LLC. It makes findings of violation and assesses a civil penalty of \$109,400. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated January 16, 2019. This enforcement action is now closed. Service of the Final Order by certified mail is effective upon the date of mailing, 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: Mr. Allan Beshore, Director, Central Region, Office of Pipeline Safety, PHMSA
Mr. Dean Gore, Vice President, Environmental and Regulatory Compliance, Plains All American Pipeline, LP, 333 Clay Street, Suite 1600, Houston, Texas 77002
Mr. Kevin Fletcher, President and CEO, WEC Energy Group, 231 W. Michigan Street, Milwaukee, Wisconsin 53203

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)

PAA Natural Gas Storage, LLC,)
a subsidiary of Plains All American Pipeline, LP,)

Respondent.)

CPF No. 3-2018-1006

FINAL ORDER

From September 19 through 23, 2016, and October 18 through 20, 2016, pursuant to 49 U.S.C. § 60117, representatives of the Michigan Public Service Commission (MIPSC), acting as an interstate agent for the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of PAA Natural Gas Storage's (Respondent or Plains) Bluewater facility in Columbus, Michigan.¹ Plains is a subsidiary of Plains All American Pipeline, LP.² On June 30, 2017, approximately seven months after the MIPSC inspection, Plains sold its Bluewater natural gas storage facility to WEC Energy Group, Inc.³

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated November 28, 2018, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Plains had committed five violations of 49 C.F.R. Part 192 and proposed assessing a civil penalty of \$109,400 for the alleged violations.

Plains responded to the Notice by letter dated January 9, 2019 (Response). The company did not contest the allegations of violation and paid the proposed civil penalty of \$109,400 by wire transfer on January 16, 2019. In accordance with 49 C.F.R. § 190.208(a)(1), such payment authorizes the Associate Administrator to make findings of violation and to issue this final order without further proceedings.

¹ Plains All American Pipeline, LP, US SEC Form 10-K, available at http://www.edgarexplorer.com/EFX_dll/EdgarPro.dll?FetchFilingHTML1?SessionID=LAo3UncwYyg1iwc&ID=13256218 (last accessed April 12, 2019).

² *Id.* at Exhibit 21.1.

³ *Id.* at F-58.

FINDINGS OF VIOLATION

In its Response, Plains did not contest the allegations in the Notice that it violated 49 C.F.R. Part 192, as follows:

Item 5: The Notice alleged that Respondent violated 49 C.F.R. § 192.603(b), which states in relevant part:

§ 192.603 General provisions.

- (a)
- (b) Each operator shall keep records necessary to administer the procedures established under § 192.605.

The Notice alleged that Respondent violated 49 C.F.R. § 192.603(b) by failing to keep records necessary to administer the procedures established under § 192.605. Specifically, the Notice alleged that Plains failed to keep records needed to review employee activities to determine whether the procedures were followed in an emergency. The Notice also alleged that Plains failed to keep records of leak surveys required by its *O&M Procedure 467* when a shorted casing cannot be cleared.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.603(b) by failing to keep records necessary to administer the procedures established under § 192.605.

Item 8: The Notice alleged that Respondent violated 49 C.F.R. § 192.706(a), which states:

§ 192.706 Transmission lines: Leakage surveys.

Leakage surveys of a transmission line must be conducted at intervals not exceeding 15 months, but at least once each calendar year. However, in the case of a transmission line which transports gas in conformity with § 192.625 without an odor or odorant, leakage surveys using leak detector equipment must be conducted—

- (a) In class 3 locations, at intervals not exceeding 7½ months, but at least twice each calendar year;

The Notice alleged that Respondent violated 49 C.F.R. § 192.706(a) by failing to conduct leakage surveys at intervals not exceeding 7½ months, but at least twice each calendar year. Specifically, the Notice alleged that Plains did not conduct a leakage survey in a Class 3 area of its pipeline segment, west of Big Hand Road and east of Bauman Road, at least twice a year from 2013-2015. The Notice also alleged that the Class 3 locations on Plains' Kimball pipeline exceeded the 7½ month maximum interval twice between 2014 and 2016.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.706(a) by failing to conduct leakage surveys at intervals not exceeding 7½ months, but at least twice each calendar year.

Item 9: The Notice alleged that Respondent violated 49 C.F.R. § 192.736(b)(2), which states:

§ 192.736 Compressor stations: Gas detection.

(a)

(b) Except when shutdown of the system is necessary for maintenance under paragraph (c) of this section, each gas detection and alarm system required by this section must-

(1) Continuously monitor the compressor building for a concentration of gas in air of not more than 25 percent of the lower explosive limit; and

(2) If that concentration of gas is detected, warn persons about to enter the building and person inside the building on the danger.

The Notice alleged that Respondent violated 49 C.F.R. § 192.736(b)(2) by failing to have a device that could warn people about to enter a compressor building that a concentration of gas in the air of greater than or equal to 25 percent of the lower explosive level was detected. Specifically, the Notice alleged that the north side of Plains' Kimball compressor station had three doors for ingress and egress, but there was no gas indicator light visible from that side of the building.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.736(b)(2) by failing to have a device that could warn people about to enter a compressor building that a concentration of gas in the air of greater than or equal to 25 percent of the lower explosive level was detected.

Item 11: The Notice alleged that Respondent violated 49 C.F.R. §192.917(b) which states:

§ 192.917 How does an operator identify potential threats to pipeline integrity and use the threat identification in its integrity program?

(a)

(b) *Data gathering and integration.* To identify and evaluate the potential threats to a covered pipeline segment, an operator must gather and integrate existing data and information on the entire pipeline that could be relevant to the covered segment. In performing this data gathering and integration, an operator must follow the requirements in ASME/ANSI B31.8S, section 4. At a minimum, an operator must gather and evaluate the set of data specified in Appendix A to ASME/ANSI B31.8S, and consider both on the covered segment and similar non-covered segments, past incident history, corrosion control records, continuing surveillance records, patrolling records, maintenance history, internal inspection records and all other conditions specific to each pipeline.

The Notice alleged that Respondent violated 49 C.F.R. § 192.917(b) by failing to consider past incident history when identifying and evaluating the potential threats to its covered pipeline segment as part of risk ranking the line segment. Specifically, the Notice alleged that Plains incorrectly noted in its December 2015 Risk Analysis data that the Ray to Marysville line did not have any third party damage failures or incorrect operations failures. The Notice alleged that

Plains had third party damage from a tiling contract on this line in June 2014, and a subsequent rupture at the Vector Compressor Station due to incorrect operations also in June 2014.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.917(b) by failing to consider past incident history when identifying and evaluating the potential threats to its covered pipeline segment as part of risk ranking the line segment.

Item 12: The Notice alleged that Respondent violated 49 C.F.R. § 192.947(d), which states:

§ 192.947 What records must an operator keep?

An operator must maintain, for the useful life of the pipeline, records that demonstrate compliance with the requirements of this subpart. At minimum, an operator must maintain the following records for review during an inspection.

(a)

(d) Documents to support any decision, analysis and process developed and used to implement and evaluate each element of the baseline assessment plan and integrity management program. Documents include those developed and used in support of any identification, calculation, amendment, modification, justification, deviation and determination made, and any action taken to implement and evaluate any of the program elements;

The Notice alleged that Respondent violated 49 C.F.R. § 192.947(d) by failing to maintain documents to support any decision, analysis and process developed and used to implement and evaluate each element of the integrity management program. Specifically, the Notice alleged that Plains could not provide any documentation for the following:

- 1) How Plains identifies its high consequence areas (HCA);
- 2) Potential impact radius calculations for identified HCA areas;
- 3) All preventative and mitigative measures that must be considered, specifically, measures to address third party damage on its 20-inch Ray to Marysville line; and
- 4) Performance measures and data on the history of its integrity management plan.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.947(d) by failing to maintain documents to support any decision, analysis and process developed and used to implement and evaluate each element of the integrity management program.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.⁴ In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$109,400 for the violations cited above.

Item 5: The Notice proposed a civil penalty of \$12,900 for Respondent's violation of 49 C.F.R. § 192.603(b), for failing to keep records necessary to administer the procedures established under § 192.605. Plains neither contested the allegation nor presented any evidence or argument justifying a reduction in or elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$12,900 for violation of 49 C.F.R. § 192.603(b).

Item 8: The Notice proposed a civil penalty of \$40,300 for Respondent's violation of 49 C.F.R. § 192.706(a), for failing to conduct leakage surveys at intervals not exceeding 7½ months, but at least twice each calendar year. Plains neither contested the allegation nor presented any evidence or argument justifying a reduction in or elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$40,300 for violation of 49 C.F.R. § 192.706(a).

Item 9: The Notice proposed a civil penalty of \$24,400 for Respondent's violation of 49 C.F.R. § 192.736(b)(2), for failing to have a gas detection and alarm system that could warn people about to enter the compressor building that a concentration of gas of greater than or equal to 25 percent of the lower explosive level was detected. Plains neither contested the allegation nor presented any evidence or argument justifying a reduction in or elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$24,400 for violation of 49 C.F.R. § 192.736(b)(2).

Item 11: The Notice proposed a civil penalty of \$ 18,700 for Respondent's violation of 49 C.F.R. § 192.917(b), for failing to consider past incident history when identifying and evaluating the potential threats to its covered pipeline segment as part of risk ranking the line segment. Plains neither contested the allegation nor presented any evidence or argument justifying a reduction in or the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$18,700 for violation of 49 C.F.R. § 192.917(b).

⁴ These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223; Revisions to Civil Penalty Amounts, 83 Fed. Reg. 60732, 60744 (Nov. 27, 2018).

Item 12: The Notice proposed a civil penalty of \$13,100 for Respondent's violation of 49 C.F.R. § 192.947(d), for failing to maintain documents to support any decision, analysis and process developed and used to implement and evaluate each element of the integrity management program. Plains neither contested the allegation nor presented any evidence or argument justifying a reduction in or elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$13,100 for violation of 49 C.F.R. § 192.947(d).

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total civil penalty of **\$109,400**, which amount was paid in full by wire transfer on January 16, 2019.

WARNING ITEMS

With respect to Items 1, 2, 3, 4, 6, 7, and 10, the Notice alleged probable violations of Parts 191 and 192 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. § 191.17(a) **(Item 1)** — Respondent's alleged failure to submit an annual report on DOT Form PHMSA 7100.2.1. Specifically, Respondent allegedly failed to submit accurate annual reports in 2014, 2015, and 2016.

49 C.F.R. § 192.163(e) **(Item 2)** — Respondent's alleged failure to follow the applicable requirements of NFPA 70 in the compression room of Kimball Compressor station, and in the building at Vector Booster Station.

49 C.F.R. § 192.479(a) **(Item 3)** — Respondent's alleged failure to clean and coat several pipe nipples and other small components at Columbus Compressor Station and Kimball Compressor Station.

49 C.F.R. § 192.465(b) **(Item 4)** — Respondent's alleged failure to inspect each cathodic protection rectifier or other impressed current power source six times each calendar year, but with intervals not exceeding 2½ months, to ensure that it is operating. Specifically, Respondent allegedly failed to inspect five rectifiers within the maximum 2½ month interval.

49 C.F.R. § 192.605(a) **(Item 6)** — Respondent's alleged failure to follow its procedures as specified in its O&M Manual for class location surveys that are required by § 192.605(e) and § 192.613(a). Specifically, Respondent allegedly failed to conduct a class location survey once each calendar year, at intervals not exceeding 15 months.

49 C.F.R. § 192.619(a)(2)(ii) (**Item 7**) — Respondent's alleged failure to correctly establish the maximum allowable operating pressure after it hydrostatically tested the Vector/MichCon 20-inch pipeline in 2014.

49 C.F.R. § 192.745(a) (**Item 10**) — Respondent's alleged failure to inspect and partially operate, at intervals not exceeding 15 months but at least once each calendar year, each transmission line valve that might be required during an emergency. Specifically, Respondent allegedly failed to include blowdown valves as mainline valve during its annual valve inspection. In addition, Respondent allegedly failed to partially or fully operate valves, BVM-1 and BVM-2, in 2013.

If OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

June 27, 2019

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued