



U.S. Department
of Transportation

**Pipeline and Hazardous Materials
Safety Administration**

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

WARNING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

January 9, 2019

David Dehaemers
President
Tallgrass Pony Express Pipeline, LLC
370 Van Gordon Street
Lakewood, CO 80228

CPF 3-2019-5004W

Dear Mr. Dehaemers:

On August 3, 2016, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected your Tallgrass Pony Express Pipeline in Lincoln, Kansas.

As a result of the inspection, it is alleged that you have committed two probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violation(s) are:

1. §194.107 General response plan requirements

(c) Each response plan must include:

(ix) Drill program-an operator will satisfy the requirement for a drill program by following the National Preparedness for Response Exercise Program (PREP) guidelines. An operator choosing not to follow PREP guidelines must have a drill program that is equivalent to PREP. The operator must describe the drill program in the response plan and OPS will determine if the program is equivalent to PREP.

Tallgrass failed to follow the the PREP guidelines and the drill program as described in the response plan. Tallgrass failed to conduct the qualified individual notification exercise during non-business hours for each year as required by Section 2 of PREP and the “Tallgrass Pony Express Pipeline and Northeast Colorado Lateral Emergency Response Plan” Section 7.1.2 QI Notification Drill.

PREP guidelines Section 2 states,

"At least once a year, the qualified individual notification exercise shall be conducted during non-business hours."

“Tallgrass Pony Express Pipeline and Northeast Colorado Lateral Emergency Response Plan” Section 7.1.2 QI Notification Drill states,

“One of these notification drills will be performed during non-business hours each year.”

PHMSA requested all training for the Emergency/Spill Response Plan for 2014. According to the information provided in response to this request, Tallgrass Pony Express conducted one qualified individual notification drill in 2014. The date and time of this drill was Tuesday December 9, 2014, at 13:28 hrs. This drill was not performed during non-business hours for the year 2014.

2. §195.403 Emergency Response Training.

(c) Each operator shall require and verify that its supervisors maintain a thorough knowledge of that portion of the emergency response procedures established under 195.402 for which they are responsible to ensure compliance.

Tallgrass Pony Express failed to require and verify that its supervisors maintain a thorough knowledge of that portion of the emergency response procedure established under 195.402 for which they are responsible to ensure compliance. “Tallgrass Pony Express Pipeline and Northeast Colorado Lateral Emergency Response Plan” (ERP) section 7.1.4 “Spill Response Team Tabletop Exercise Level II Procedures” states,

"In addition to those objectives of Level 0 and Level I drills, the Level II events should include the completion of an IAP (Form 8, Appendix B) and the development of the long-range plan. The time allotted for this magnitude of drill should extend to 8 hours."

PHMSA attended the Tallgrass’ Pony Express spill drill on August 3, 2016. The drill only lasted 1.5 hours and Tallgrass considered the drill a "Level 2". On August 3, 2016, PHMSA discussed with Tallgrass personnel drill level requirements. During this discussion it was determined that those participating in the drill were unaware of the time duration requirements applicable to various drill levels as identified in the ERP.

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 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 correct the item(s) identified in this letter. Failure to do so will result in Tallgrass Pony Express Pipeline being subject to additional enforcement action.

No reply to this letter is required. If you choose to reply, in your correspondence please refer to **CPF 3-2019-5004W**. 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).

Sincerely,



Allan C. Beshore
Director, Central Region, OPS
Pipeline and Hazardous Materials Safety Administration