

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

February 12, 2019

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

CPF 3-2019-5010

Dear Mr. Dehaemers:

On July 6-7, 2017, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected Tallgrass Pony Express Pipeline, LLC's (Tallgrass) Augusta to El Dorado construction project in El Dorado, KS.

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

1. §195.202 Compliance with specifications or standards.

Each pipeline system must be constructed in accordance with comprehensive written specifications or standards that are consistent with the requirements of this part.

Tallgrass did not construct certain portions of its Pony Express Eldorado Lateral in accordance with its written specifications.

Applicable portions of Tallgrass Construction Standard C1080 are:

3.2. Contractor shall be responsible for all aspects of application and inspection of coating applied on buried or submerged metallic pipelines, valves, fittings and other appurtenances in accordance with this Construction Standard, requirements specified, Table 2 - Below-Grade Coatings (below) and the coating material Manufacturer's recommendations. Contractor shall only apply coatings approved for use as identified in the Project Data Sheet for Approved Coatings (attached to or embedded within the Scope of Work). In the event of a conflict between this Construction Standard and the Manufacturer's data sheets or application recommendations, the more restrictive / stringent requirement shall apply.

3.6. Contractor's personnel in responsible charge at the coating application site shall be able to read, understand, interpret, and apply the requirements of this Construction Standard and associated Manufacturer's product data sheet, application instructions and any other requirements or standards necessary to ensure conformance with this Construction Standard.

10.5. If hot melt patch sticks are approved for use in accordance with the Project Data Sheet for Approved coatings (attached to or embedded within the Scope of Work), then they should be applied in conformance with the repair material Manufacturer's recommendations and Table 2 -Below-Grade Coatings of this Construction Standard. The material shall be applied to obtain a minimum thickness of 15 mils over the parent coating.

10.6. Use of hot melt patch sticks are prohibited for use under any of the following condition:

10.6.1. If not specifically approved for use in the Project Data Sheet for Approved Coatings (attached to or embedded within the project Scope of Work).

10.6.2. On pipelines with a design factor greater than 0.72.

10.6.3. On coating holidays greater than 2mm for when utilizing 3M 226P hot melt patch stick or coating holidays greater than 0.25 inches on Napgard 7-1631S patch stick.

10.6.4. On anything other than the specific coating Manufacturer's fusion bonded epoxy product (e.g. cannot use as a repair on liquid epoxy coatings).

When PHMSA inspectors initially spoke to the Tallgrass Representative and the Tallgrass Construction Manager on the morning of July 6, 2017, it was stated to the PHMSA inspectors

that patch sticks were not being used on the construction site located near Eldorado, Kansas. However, after PHMSA inspectors went out to the construction site, it was determined that patch sticks were indeed being used by the contractors. PHMSA identified several instances of pipeline personnel failing to follow applicable written standards regarding the application of corrosion control coatings during the Pony Express Eldorado Lateral's construction.

Tallgrass failed to apply the 3M Scotchkote Hot Melt Patch Compound 226P (patch stick) in accordance to the written standards and manufacturer's instructions in the following instances:

- On July 6, 2017, at approximately Latitude 37.771402616089, Longitude - 96.96979204201789 (GPS location) the PHMSA inspector observed workers heating the patch sticks directly. Patch stick General Application Steps, Item 2, states, "Avoid heat application directly to the patchstick while prewarming the coating surface."
- On July 6, 2017, at approximately Latitude 37.771402616089, Longitude 96.96979204201789 (GPS location) the PHMSA inspector observed workers slapping the patches after application not allowing the patches to cool. Patch stick General Application Steps, Item 4, states, "Allow the patch to cool before handling."
- On July 6, 2017, at approximately Latitude 37.771402616089, Longitude - 96.96979204201789 (GPS location) a patch stick had been applied to the liquid epoxy coating Denso Protal 7200 in proximity to the girth weld. Section 10.6.4 of Tallgrass Standard C1080 specifies patch sticks cannot be used as a repair on liquid epoxy coatings.

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 and has recommended that you be preliminarily assessed a civil penalty of \$ 23,100 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$ 23,100

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).

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.

In your correspondence on this matter, please refer to **CPF 3-2019-5010** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

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

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