

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

VIA ELECTRONIC MAIL TO: bill.moler@tallgrassenergylp.com;
jennifer.eckels@tallgrassenergylp.com; brad.armsbury@tallgrassenergylp.com;

November 5, 2021

William Moler
Chief Executive Officer
Tallgrass Powder River Gateway, LLC
4200 W. 115th St. Suite 350
Leawood, KS 66211

CPF 3-2021-045-NOPV

Dear Mr. Moler:

From August 2, 2020, to October 25, 2020, 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 Powder River Gateway, LLC's (Tallgrass') records and facilities in Lakewood, Colorado.

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

1. **§ 195.404 Maps and records.**

(a)

(c) **Each operator shall maintain the following records for the periods specified:**

(1)

(3) **A record of each inspection and test required by this subpart shall be maintained for at least 2 years or until the next inspection or test is performed, whichever is longer.**

Tallgrass failed to maintain records related to the maintenance and testing of two overpressure safety devices as required by § 195.404(c)(3). Under § 195.404(c)(3) an operator must maintain records for each inspection and test required under Subpart F. Section 195.428, of Subpart F, requires operators to inspect and test overpressure safety devices. During the inspection, PHMSA requested testing and calibration records for pressure transmitters at Tallgrass' terminal in Guernsey, Wyoming. After Tallgrass failed to produce any records in response to this initial request, PHMSA followed up with a second records request on October 7, 2020, to determine the correct set point and calibration dates for the Guernsey terminal main line discharge overpressure protection device. The records Tallgrass provided were incomplete. Tallgrass did not provide any record of inspection for the 2019 calendar year for PIT 1002 Guernsey "Station Discharge Pressure" transmitter and for PIT 1001 "Discharge From Mainline Pumps".

2. **§ 195.406 Maximum operating pressure.**

(a)

(b) **No operator may permit the pressure in a pipeline during surges or other variations from normal operations to exceed 110 percent of the operating pressure limit established under paragraph (a) of this section. Each operator must provide adequate controls and protective equipment to control the pressure within this limit.**

Tallgrass failed to provide adequate controls and protective equipment to ensure that the pressure in its pipelines, during surges or other variations from normal operation, did not exceed 110 percent of the established maximum operating pressure as required under § 195.406(b). In the following three instances listed below, Tallgrass allowed the pipeline pressure to surge above 110% of the operating pressure limit (MOP), and therefore did not install adequate controls and protective equipment to control the pressure within the required limit:

1. 115% MOP on 08-14-19 at Guernsey S. on flying switch (ERL 1715)
2. 115% MOP on 10-25-19 at Pronghorn Station due to valve maintenance (ERL 1802)
3. 127% MOP on 10-30-19 at Pronghorn Station due to power loss (ERL 1807)

3. **§ 195.452 Pipeline integrity management in high consequence areas.**

(a)

(l) *What records must an operator keep to demonstrate compliance?*

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

(i)

(ii) Documents to support the decisions and analyses, including any modifications, justifications, deviations and determinations made, variances, and actions taken, to implement and evaluate each element of the integrity management program listed in paragraph (f) of this section.

Tallgrass failed to document elements of its integrity management program required by § 195.452(f)(6) to take mitigative and preventative actions to address threats to its facilities. Specifically, Tallgrass failed to document actions taken to mitigate the threat of dead legs at its facilities. During review of Tallgrass facility risk analysis records, PHMSA found that Tallgrass identified a risk of internal corrosion due to dead legs at its Guernsey, Wyoming terminal. PHMSA requested records of preventative activities to address this risk, however Tallgrass provided only various statements about an ongoing process and its future development of a formal program.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$225,134 per violation per day the violation persists, up to a maximum of \$2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021 and before May 3, 2021, the maximum penalty may not exceed \$222,504 per violation per day the violation persists, up to a maximum of \$2,225,034 for a related series of violations. For violation occurring on or after July 31, 2019 and before January 11, 2021, the maximum penalty may not exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. 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 documentation involved for the above probable violation(s) and recommend that you be preliminarily assessed a civil penalty of \$58,400 as follows:

<u>Item number</u>	<u>PENALTY</u>
2	\$58,400

Warning Item

With respect to Item 1, 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. Failure to do so may result in additional enforcement action.

Proposed Compliance Order

With respect to Items 2 and 3, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Tallgrass Powder River Gateway, LLC. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement Proceedings*. Please refer to this document and note the response options. All material you 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 C.F.R. § 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 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 3-2021-045-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Gregory A. Ochs
Director, Central Region, OPS
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Enforcement Proceedings

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Tallgrass Powder River Gateway, LLC (Tallgrass) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Tallgrass with the pipeline safety regulations:

- A. In regard to Item 2 of the Notice pertaining to overpressure protection, Tallgrass must evaluate each facility to ensure that its pipeline system is protected from overpressure using a means of surge protection, installing surge relief devices as necessary. In its evaluation, Tallgrass must prioritize facilities with repeated occurrences of surge pressure events. Tallgrass must, within 60 days of the issuance of the Final Order, provide the results of the evaluation, and a schedule for corrective action to the Director, PHMSA Central Region.
- B. In regard to Item 3 of the Notice pertaining to mitigation of risks associated with “dead legs,” Tallgrass must, within 60 days of the Final Order provide the Director, PHMSA Central Region, a comprehensive list of facilities documenting the specific location of all “dead leg” pipe segments, listing relevant attributes of each segment (age of pipe, wall thickness, coating type, etc...). Tallgrass must include with the description an outline of maintenance and remediation activities completed for each segment for the 36 months preceding the date of issuance of the Final Order. Additionally, Tallgrass must include an outline of planned preventive maintenance activities for each segment for the 12 months after the date of issuance of the Final Order.
- C. It is requested that Tallgrass maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Greg Ochs, 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.