



August 11, 2016

Via Certified Mail & Electronic Mail

Mr. R.M. Seeley
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration
8701 South Gessner, Suite 1110
Houston, Texas 77074



**Re: Response to Notice of Probable Violation and Proposed Civil Penalty;
CPF 4-2016-5024**

Dear Mr. Seeley:

This letter responds to the Notice of Probable Violation and Proposed Civil Penalty (CPF 4-2016-5024) (NOPV/PCP) issued to Plains Marketing, L.P. (Plains) on July 11, 2016 regarding certain alleged violations of the Pipeline and Hazardous Materials Safety Administration (PHMSA) Pipeline Safety Regulations, Title 49, Code of Federal Regulations and Section 15 of the Pipeline Safety Improvement Act of 2002. In this response, we address each of the items noted in the NOPV/PCP.

Response to Probable Violations Identified in NOPV/PCP

1) §195.64 National Registry of Pipeline and LNG Operators.

PHMSA alleges that Plains failed to provide adequate notifications for several construction projects submitted on three construction notifications. These three projects and Plains' specific responses are listed chronologically below:

National Registry Project F-20141028-6202:

- Five (5) breakout tanks constructed at the Cushing Terminal in Lincoln County.
 - PHMSA notification: October 28, 2014
 - Proposed Construction Date in Notification: November 25, 2014
 - Actual Construction Start Date:
 - Tank 1720 - December 13, 2014
 - Tank 1820 - December 18, 2014
 - Tank 1840 - January 17, 2014
 - Tank 1830 - January 24, 2015
 - Tank 1730 - March 1, 2015

Response to F-20141028-6202 – As PHMSA is aware, Plains is a common carrier hazardous liquid pipeline and storage company supplying crude oil transportation and storage for upstream and downstream companies. As a result, much of the new construction Plains is involved in is

based upon contracts with customers and their production forecasting. In most cases, the forecasting and contracting underlying these construction projects include sufficient time to provide timely notifications to PHMSA. In fact, since the National Registry of Pipeline and LNG Operations went into effect January 1, 2012, Plains has made 93 timely notifications to PHMSA.

In the case of the referenced construction notification, at the time the project Authorization of Expense (AFE) was approved, the contractual in-service obligation and construction schedule put the anticipated construction start date at November 25, 2014 against a construction notification date of October 28, 2014. However, of the five tanks listed outlined in the November 25, 2014 National Registry notification, only two initiated construction within 60 days of the notification date (Tanks 1720 and 1820). Construction on the three remaining three tanks (Tanks 1840, 1830 and 1730) commenced more than 60 days after the November 25, 2014 notification.

National Registry Project F-20151211-9202:

- Three (3) breakout tanks constructed at the Cushing Terminal in Lincoln County
 - PHMSA notification: December 11, 2015
 - Proposed Construction Date in Notification: July 1, 2015
 - Actual Construction Start date:
 - Tank 1740 - August 3, 2015
 - Tank 1750 – August 11, 2015
 - Tank 1850 – August 25, 2015

- **Response to F-20151211-9202** –This construction notification was made at PHMSA’s request due to a Plains error in including five tanks rather than eight tanks on the October 28, 2014 National Registry notification (F-20141028-6202). Prior to this registration (December 11, 2015), PHMSA had allowed Plains to provide backend updates to existing OPID registrations when an original project had a scope change or error. Therefore, when it was discovered in November, 2015 that eight tanks, instead of five, were under construction, Plains attempted to revise the original registration. On November 19, 2015, Chrystah Carter, with Plains, made a request to the PHMSA administrator, Tanya Davis,(see attached email correspondence) to have three tanks added to F-20141028-6202 (Plains had made similar requests and had been granted those requests on previous projects) only to discover that PHMSA had made changes to its (“online Registry system”) which prevented post-dated changes to existing Registry entries. Plains was instructed by Ms. Davis to open a second operator registry showing a notification date of December 11, 2015 against construction start dates of August 3 through 23, 2015. Had Plains been able to modify the October 28, 2014 notification to add these three tanks (as had been allowed in the past), the 60-day notification requirement of 49 CFR 195.64 would not have been violated.

National Registry Project F-20160428-11144:

- A total of four (4) tanks constructed at Plains' Cushing Terminal. Two (2) breakout tanks in Payne and two (2) breakout tanks in Lincoln County.
 - PHMSA notification: April 28, 2016
 - Proposed Construction Date in Notification: June 1, 2016
 - Actual Construction Start date:
 - July 11, 2016 – Tank 7200
 - July 25, 2016 – Tank 7300
 - August 10, 2016 – Tank 3950
 - August 10, 2016 – Tank 4350

Response to F-20160428-11144 – This project also fell under the same condition as *F-20141028-6202*. By the time the project scope and funding was approved, the estimated start date was June 1, 2016. This “estimated” start time provided only 34 days of advance notice to PHMSA. However, actual construction started no earlier than July 11, 2016, which is well within the 60 day notification requirement of 49 CFR 195.64

In summary, since the adoption of the National Registry of Pipeline and LNG Operations (effective January 1, 2012), Plains has been diligent in its compliance with §195.64. This is evident in the 93 timely National Registries that have been submitted to PHMSA since January 1, 2012 and the ongoing correspondence that took place between Plains and the PHMSA registry administrator. While estimated start dates were provided in the project notifications, the actual construction start dates for all but two of the twelve tanks referenced in this NOV were well after the 60 day notification requirement of 49 CFR 195.64.

Therefore, based on Plains long history of compliance and the limited affect these three projects had on the PHMSA inspector's schedule, Plains respectfully requests that this NOPV be dismissed along with the fines and replaced with a Warning Letter putting Plains on notice of a possible NOV if late notifications happen again. In the meantime, strict instructions and training have been administered to our engineering department and National Registry coordinator regarding this important notification process so to eliminate the possibility of any late notices from occurring in the future.

Respectfully,



MLK
Wm. Dean Gore, Jr.
Vice President – Environmental & Regulatory Compliance

Cc: Mr. Thomas McLane – Plains All American – Houston, TX
Mr. Keith Laughery – Plains All American – Houston, TX
Mr. Kevin Cunningham – Plains All American – Cushing, OK

Attachments:
F-20141028-6202 Operator Registry Notification