

May 20, 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. 4-2018-1010

Dear Mr. Chiang:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$82,300 against PAA Natural Gas Storage, a subsidiary of Plains All American Pipeline, LP. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated October 31, 2018. 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: Ms. Mary McDaniel, Director, Southwestern Region, Office of Pipeline Safety, PHMSA
Mr. Dean Gore, Vice President, Environmental and Regulatory Compliance, Plains All American Pipeline, LP

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,)
a subsidiary of Plains All American Pipeline, LP,)

Respondent.)

CPF No. 4-2018-1010

FINAL ORDER

From January 6 through June 27, 2017, pursuant to 49 U.S.C. § 60117, a representative of 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 Pine Prairie Energy Center, which operates a salt dome gas storage facility with an 82.5 mile pipeline system in Ville Platte, Louisiana.^{1,2} Pine Prairie Energy Center is a subsidiary of PAA Natural Gas Storage (PAA or Respondent). PAA is an indirect subsidiary of Plains All American Pipeline, LP (Plains), and handles Plains' natural gas storage operations.³

As a result of the inspection, the Director, Southwestern Region, OPS (Director), issued to Respondent, by letter dated October 4, 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 PAA had violated 49 C.F.R. §§ 192.805(b), 192.611(d), and 192.605(a) and proposed assessing a civil penalty of \$82,300 for the alleged violations.

PAA responded to the Notice by letter dated November 5, 2018 (Response). The company did not contest the allegations of violation and paid the proposed civil penalty of \$82,300 by wire transfer on October 31, 2018. 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 Natural Gas Storage website, available at <https://www.plainsallamerican.com/about-us/subsidiary-websites/paa-natural-gas-storage> (last accessed February 7, 2019).

² Pipeline Safety Violation Report, (October 4, 2018) (on file with PHMSA), at 1.

³ Plains website, available at <https://www.plainsallamerican.com/about-us/subsidiary-websites> (last accessed February 1, 2019).

FINDINGS OF VIOLATION

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

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.805(b), which states:

§ 192.805 Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

- (a)
- (b) Ensure through evaluation that individuals performing covered tasks are qualified;

The Notice alleged that Respondent violated 49 C.F.R. § 192.805(b) by failing to ensure through evaluation that eight individuals were qualified to perform covered tasks as follows. The Notice alleged that from 2014-2016, PAA failed to ensure through evaluation that two individuals were qualified to perform Covered Task 55: Maintain Fixed Gas Detection Equipment to Complete Gas Detector Calibrations. In addition, the Notice alleged that a controller's qualification to perform Covered Task 43.4/52.4: Remotely Operate Valves on a Gas Pipeline System (Control Center) had expired when the controller performed the task in 2015 and 2016.

Lastly, the Notice alleged that PAA failed to ensure through evaluation that five individuals were qualified to perform four covered tasks, namely: Covered Task 43.1: Start-up of a Liquid Pipeline (Control Center); Covered Task 43.2: Shutdown of a Liquid Pipeline (Control Center); Covered Task 43.3: Monitor Pressures, Flows, Communications and Maintain them within Allowable Limits on a Liquid Pipeline System (Control Center); and Covered Task 43.4: Remotely Operate Valves on a Liquid Pipeline System (Control Center).

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. § 192.805(b) by failing to ensure through evaluation that eight individuals performing covered tasks are qualified.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.611(d), which states, in relevant part:

§ 192.611 Change in class location: Confirmation or revision of maximum allowable operating pressure.

- (a)
- (d) Confirmation or revision of the maximum allowable operating pressure that is required as a result of a study under § 192.609 must be completed within 24 months of the change in class location. . . .

The Notice alleged that Respondent violated 49 C.F.R. § 192.611(d) by failing to confirm or revise its maximum allowable operating pressure (MAOP) within 24 months of a change in class location. Specifically, the Notice alleged that in March 2009, PAA experienced a change in class location for a segment of Line 100 in Evangeline Parish, Louisiana, due to the development of a

new trailer park, but did not reduce its MAOP from 1350 psig to 1219 psig until March 2017.

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. § 192.611(d) by failing to revise its MAOP within 24 months of a change in class location.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a), which states:

§ 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a) by failing to follow control room management procedures. Specifically, the Notice alleged that PAA failed to follow its Natural Gas Storage Control Room Management Plan, Chapter 10, *Compliance and Deviations* (CRM Plan), in recording acceptable deviations from the maximum limit of controller hours of service.

The Notice alleged that Section 10.4 of the CRM Plan, *Acceptable Deviations*, provided a list of acceptable deviations from the maximum limit of controller hours of service. The Notice alleged further that from January 2014 through December 2016, PAA repeatedly documented deviations from the maximum limit on controller hours of service on its *Control Room Deviation Form*, citing “vacation relief,” “vacation/sick relief,” and “safety committee/training” as justification. The Notice alleged that none of those justifications are provided for in the CRM Plan.

In addition, the Notice alleged that PAA failed to follow Section 10.3 of the CRM Plan, *Deviations*, which requires that documentation of all deviations must be available, including applicable analysis, to support any approved deviation.

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. § 192.605(a) by failing to follow its CRM Plan, Chapter 10, *Compliance and Deviations*, in recording acceptable deviations from the maximum limit of controller hours of service.

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 \$82,300 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$21,400 for Respondent's violation of 49 C.F.R. § 192.805(b), for failing to ensure through evaluation that eight individuals were qualified to perform six covered tasks. PAA 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 \$21,400 for violation of 49 C.F.R. § 192.805(b).

Item 2: The Notice proposed a civil penalty of \$29,300 for Respondent's violation of 49 C.F.R. § 192.611(d), for failing to revise its MAOP within 24 months of a change in class location. PAA 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 \$29,300 for violation of 49 C.F.R. § 192.611(d).

Item 3: The Notice proposed a civil penalty of \$31,600 for Respondent's violation of 49 C.F.R. § 192.605(a), for failing to follow its CRM Plan, in recording acceptable deviations from the maximum limit of controller hours of service. PAA 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 \$31,600 for violation of 49 C.F.R. § 192.605(a).

In summary, having reviewed the record and considered the assessment criteria for each of the items cited above, I assess Respondent a civil penalty of **\$82,300**, which was paid in full by wire transfer on October 31, 2018.

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

May 20, 2019

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued

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).