

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

May 17, 2019

Farrah Lowe
Senior Vice President
Tres Palacios Gas Storage, LLC
811 Main Street, Suite 3400
Houston, Texas 77002

CPF 4-2019-1006

Dear Ms. Lowe:

On May 14 through November 13, 2018, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected your Tres Palacios Gas Storage, LLC's (Tres Palacios, an entity of Crestwood), procedures for Operations and Maintenance, Integrity Management, and Control Room Management in Bay City, Texas and Houston, Texas, respectively.

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. §192.465 External corrosion control: Monitoring

(d) Each operator shall take prompt remedial action to correct any deficiencies indicated by the monitoring.

Tres Palacios failed to take prompt remedial action to repair test lead wires found disconnected from the pipeline during their Annual Mitigation Surveys performed in 2015, 2016, and 2017.

During the inspection, PHMSA reviewed the Annual Mitigation Surveys for 2015, 2016, and 2017 and found that three test leads were inoperable for the 2015 and 2016 annual survey, and two of the three remained inoperable for 2017. The three test leads include Lease Road NS, MP 11:TL@CR 373, and MP 14: TL @ CR 116 SS.

Following the inspection, Tres Palacios submitted documentation to show the test leads have been repaired.

2. §192.631 Control room management.

(b) Roles and responsibilities. Each operator must define the roles and responsibilities of a controller during normal, abnormal, and emergency operating conditions. To provide for a controller's prompt and appropriate response to operating conditions, an operator must define each of the following:

(4) A method of recording controller shift-changes and any hand- over of responsibility between controllers; and

Tres Palacios failed to provide documentation for shift change per Tres Palacios' written CRM Manual, Section 204 R&Rs – Shift Change Information & Accountability [192.631(b)(4)] for the following days: February 22-31, 2018; March 8-14, 2018; and August 13, 2018; in the Shift change process (POEMS).

Documentation for the shift changes were not recorded by any of the controller on those shifts. Tres Palacios' written procedures describes the method for recording controller shift-changes and any hand-over of responsibility between controllers in its first paragraph.

The PHMSA inspector reviewed Tres Palacios' shift change process and records (POEMS) and found they were not consistent with the operator's written procedures or PHMSA's regulation §192.631(b) (4).

3. §192.903 What definitions apply to this subpart?

Potential impact circle is a circle of radius equal to the potential impact radius (PIR). **Potential impact radius (PIR)** means the radius of a circle within which the potential failure of a pipeline could have significant impact on people or property. PIR is determined by the formula $r = 0.69 * (\text{square root of } (p * d^2))$, where 'r' is the radius of a circular area in feet surrounding the point of failure, 'p' is the maximum allowable operating pressure (MAOP) in the pipeline segment in pounds per square inch and 'd' is the nominal diameter of the pipeline in inches.

***Identified site* means each of the following areas:**

- (a) An outside area or open structure that is occupied by twenty (20) or more persons on at least 50 days in any twelve (12)-month period. (The days need not be consecutive.) Examples include but are not limited to, beaches, playgrounds, recreational facilities, camping grounds, outdoor theaters, stadiums, recreational areas near a body of water, or areas outside a rural building such as a religious facility; or**
- (b) A building that is occupied by twenty (20) or more persons on at least five (5) days a week for ten (10) weeks in any twelve (12)-month period. (The days and weeks need not be consecutive.) Examples include, but are not limited to, religious facilities, office buildings, community centers, general stores, 4-H facilities, or roller skating rinks; or**
- (c) A facility occupied by persons who are confined, are of impaired mobility, or would be difficult to evacuate. Examples include but are not limited to hospitals, prisons, schools, day-care facilities, retirement facilities; or assisted-living facilities.**

Tres Palacios' Gas O&M, Section 1.8.7 High Consequence Areas procedures does not include the definitions of *Potential impact radius (PIR) and Identified Site* per PHMSA regulation: §192.903 which defines *Potential impact radius (PIR) and Identified Site*.

On June 6, 2018, Tres Palacios submitted an amended Gas O&M procedure Section 1.8.7 High Consequence Areas procedures to reflect the definition of *Potential impact radius (PIR) and Identified Site*. Upon review, PHMSA noted this revised procedure adequately reflects the definition for *Potential impact radius (PIR) and Identified Site*.

Proposed Compliance Order

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 propose a civil penalty assessment at this time.

With respect to item 2 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Tres Palacios Gas Storage, LLC. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Items

With respect to items 1 and 3 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. Both items have been addressed at this time.

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. 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).

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 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 4-2019-1006** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Mary L. McDaniel, P.E.
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration

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

PROPOSED COMPLIANCE ORDER

Pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Tres Palacios Gas Storage, LLC a Compliance Order incorporating the following remedial requirements to ensure the compliance of Tres Palacios Gas Storage, LLC with the pipeline safety regulations:

1. In regards to Item Number 2 of the Notice pertaining to Control Room Management for the re-training of controllers, Tres Palacios must conduct training for the controllers and provide records to demonstrate the training was complete.
2. Tres Palacios Gas Storage, LLC shall complete Item 1 within 60 days after receipt of the Final Order.
3. It is requested (not mandated) that Tres Palacios Gas Storage, LLC maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Mary L. McDaniel, Director, Southwest 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.