

September 13, 2018

Mr. Greg Armstrong
Chairman and CEO
Plains All American Pipeline, LP
333 Clay Street, Suite 1600
Houston, Texas 77002

Mr. Fred Boutin
Chief Executive Officer
TransMontaigne Partners, LP
1670 Broadway, Suite 3100
Denver, Colorado 80202

Re: CPF No. 5-2018-0001

Dear Mr. Armstrong and Mr. Boutin:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation against your subsidiary, Plains Marketing, LP (Plains), and requests that TransMontaigne Operating Company, LP, the successor owner of the facilities that are the subject of this Final Order, take specific actions to comply with the pipeline safety regulations. There are no outstanding compliance terms for Plains to complete, so the case 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. Kim West, Director, Western Region, Office of Pipeline Safety, PHMSA
Ms. Pamela Cannon, DOT Compliance Coordinator, TransMontaigne Operating
Company, LP, 200 Mansell Court East, Suite 600, Roswell, Georgia 30076

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

In the Matter of)
)
Plains Marketing, LP,)
a subsidiary of Plains All American Pipeline, LP,)
Respondent,) **CPF No. 5-2018-0001**
)
and)
)
TransMontaigne Operating Company, LP,)
a subsidiary of TransMontaigne Partners, LP.)
)

FINAL ORDER

From July 31, 2017, through August 3, 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 Plains Marketing, LP's (Plains or Respondent) six-inch gas distribution pipeline system that serves Martinex Terminal in Concord, California (Pipeline Facility). Plains Marketing, LP, is an operating subsidiary of Plains All American Pipeline, LP.¹ On December 15, 2017, TransMontaigne Operating Company, LP (TransMontaigne) assumed ownership of the Pipeline Facility.² TransMontaigne is a subsidiary of TransMontaigne Partners, LP, a terminaling and transportation company that provides integrated terminaling, storage, transportation and related services for customers engaged in the distribution of petroleum products.³

As a result of the inspection, the Director, Western Region, OPS (Director), issued to

¹ US SEC Form 10-K, Plains All American Pipeline, L.P., *available at* https://www.sec.gov/Archives/edgar/data/1070423/000110465915013616/a14-25277_110k.htm (last accessed June 20, 2018).

² TransMontaigne Press Release, *TransMontaigne Partners L.P. Announces Closing of Acquisition of Two West Coast Refined Product and Crude Oil Terminals from Plains All American Pipeline, L.P.* *available at* http://www.transmontaignepartners.com/wp-content/uploads/2017/12/Press-Release.TLP_-.Announces-Closing-of-West-Coast-Acquisition.12.18.2017.pdf (last accessed June 19, 2018).

³ *Id.*

Respondent, by letter dated January 17, 2018, a Notice of Probable Violation and Proposed Compliance Order (Notice), which also included warnings pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Plains had violated 49 C.F.R. § 192.625 and proposed ordering Respondent to take certain measures to correct the alleged violation. The warning items required no further action, but warned the operator to correct the probable violations or face possible future enforcement action.

Plains responded to the Notice by letter dated February 21, 2018 (Response). The company did not contest the violation, noted that it no longer owned the Pipeline Facility, and provided information regarding the present ownership of the Pipeline Facility. Respondent did not request a hearing and therefore has waived its right to one.

FINDING OF VIOLATION

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

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.625(f), which states:

§ 192.625 Odorization of gas.

(a) ...

(f) To assure the proper concentration of odorant in accordance with this section, each operator must conduct periodic sampling of combustible gases using an instrument capable of determining the percentage of gas in air at which the odor becomes readily detectable. Operators of master meter systems may comply with this requirement by-

(1) Receiving written verification from their gas source that the gas has the proper concentration of odorant; and

(2) Conducting periodic “sniff” tests at the extremities of the system to confirm that the gas contains odorant.

The Notice alleged that Respondent violated 49 C.F.R. § 192.625(f) by failing to conduct periodic sampling of combustible gases using an instrument capable of determining the percentage of gas in air at which the odor becomes readily detectable. Specifically, during the inspection, Plains was unable to provide records or other substantiating evidence to demonstrate that it was conducting periodic sampling of its combustible gas. In addition, Plains stated that it did not conduct periodic sampling because it relied on written verification from Pacific Gas and Electric Co. (PG&E) that the gas the utility supplied to Plains was fully odorized.

Plains’ system, however, is not a master meter system, as defined in 49 C.F.R. § 191.3, because it is not a system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project or apartment complex, where it purchases metered gas from an outside source for resale through a gas distribution system via meter or by other means, such as rents. Instead, Plains is the operator and ultimate consumer of the gas it supplies to its thermal

oxidizer unit and process heater at the Terminal.⁴ Because Plains is not an operator of a master meter system, as defined in § 191.3, it cannot rely on written verification from its gas source that the gas has the proper concentration of odorant pursuant to § 192.625(f)(1).

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. § 192.625(f) by failing to conduct periodic sampling of combustible gases using an instrument capable of determining the percentage of gas in air at which the odor becomes readily detectable.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to **Item 3** in the Notice for violation of 49 C.F.R. § 192.625(f). Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. However, Respondent is no longer the owner of the Pipeline Facility; since TransMontaigne is now the current operator, it is TransMontaigne's responsibility to complete the terms of the Compliance Order in order to comply with the terms of this Final Order. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, I request that TransMontaigne take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 192.625(f) (**Item 3**), TransMontaigne should develop a detailed written process for conducting periodic sampling of combustible gases using an instrument capable of determining the percentage of gas in air at which the odor becomes readily detectable and conduct the test as per the written procedures. The written procedure and periodic sampling records should be submitted to PHMSA within 180 days of receipt of the Final Order.

It is further requested that TransMontaigne maintain documentation of the safety-improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. These costs should 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.

WARNING ITEMS

With respect to **Items 1 and 2**, the Notice alleged probable violations of Part 192, but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

⁴ Notice at 3, fn. 6; *Plains All American Pipeline, LP*, Decision on Reconsideration, CPF No. 5-2009-0018 (Aug. 30, 2013).

49 C.F.R. § 192.605(a) **(Item 1)** — Respondent's alleged failure to review and update its manual of written procedures for conducting operations and maintenance activities and for emergency response at intervals not exceeding 15 months, but at least once each calendar year.

49 C.F.R. § 192.605(a) **(Item 2)** — Respondent's alleged failure to follow its written procedures for conducting operations and maintenance activities and for emergency response. Specifically, Plains failed to follow its O&M Manual Review Procedure, Section 2.4, which states:

The Operating Department shall review the actual work done by Plains operating personnel to determine the effectiveness and adequacy of the procedures used in the normal operation and maintenance of the fuel gas pipeline. Those reviewing the manual shall submit proposed procedure modifications to the Environmental Health and Safety Department for review and inclusion in the manual, if appropriate.

Plains presented information in its Response showing that it had taken certain actions to correct the cited warning items. Pursuant to § 190.205, PHMSA does not adjudicate warning items to determine if a violation has occurred. If OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

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

September 13, 2018

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued