



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

April 13, 2022

VIA ELECTRONIC MAIL TO: bill.moler@tallgrassenergyllp.com

Mr. William Moler
Chief Executive Officer
Tallgrass Interstate Gas Transmission, LLC
4200 W. 115th St. Suite 350
Leawood, KS 66211

CPF 3-2021-043-NOPV

Dear Mr. Moler:

Enclosed please find a Consent Order incorporating the terms of the Consent Agreement between the Pipeline and Hazardous Materials Safety Administration (PHMSA) and Tallgrass Interstate Gas Transmission, LLC (Tallgrass), which was fully executed on April 11, 2022. Service of the Consent Order and Consent Agreement by electronic mail is deemed effective upon the date of transmission and acknowledgement of receipt, or as otherwise provided under 49 C.F.R. § 190.5.

Sincerely,

ALAN KRAMER MAYBERRY
Digitally signed by ALAN
KRAMER MAYBERRY
Date: 2022.04.13
09:17:51 -04'00'

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosures: Consent Agreement and Consent Order

Cc: Mr. Gregory Ochs, Director, Central Region, Office of Pipeline Safety, PHMSA
Ms. Catherine Little, outside counsel for Tallgrass, catherine.little@troutman.com
Ms. Jennifer Eckels, Compliance Manager, Tallgrass, jennifer.eckels@tallgrass.com

CONFIRMATION OF 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)

Tallgrass Interstate Gas Transmission, LLC,)

Respondent.)
_____)

CPF No. 3-2021-043-NOPV

CONSENT ORDER

By letter dated December 7, 2021, the Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety (PHMSA), issued a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice) to Tallgrass Interstate Gas Transmission, LLC (Tallgrass or Respondent).

In response to the Notice, Respondent did not to contest any of the underlying allegations and requested a hearing only as to the proposed civil penalty for Items 6, 10, and 12, and the proposed compliance order actions for Items 6, 9, 10, 11, and 12 (Response). Respondent also asked for the opportunity to meet informally with PHMSA to discuss the issues raised. Respondent and PHMSA (the Parties) subsequently met on several occasions to discuss the issues raised in the Response. As a result of those discussions, Respondent has agreed to withdraw its hearing request and accept the findings of violation in the Notice, subject to the clarifications as set forth below, pay a reduced civil penalty in the amount of \$324,382 for Items 2, 3, 5, 6, 8, 10, and 12, and to undertake certain corrective measures.

Accordingly, the Consent Agreement is hereby approved and incorporated by reference into this Order. Tallgrass is hereby ordered to comply with the terms of the Consent Agreement, effective immediately.

Pursuant to 49 U.S.C. 60101, *et seq.*, failure to comply with this Consent Order may result in the assessment of civil penalties as set forth in 49 C.F.R. § 190.223.

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

ALAN KRAMER
MAYBERRY
Digitally signed by ALAN
KRAMER MAYBERRY
Date: 2022.04.13 09:18:15
-04'00'

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

April 13, 2022

Date Issued

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

In the Matter of))) Tallgrass Interstate Gas Transmission,) LLC)) Respondent.))	CPF No. 3-2021-043-NOPV
--	-------------------------

CONSENT AGREEMENT

From February 6 through November 19, 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 Interstate Gas Transmission, LLC's (Tallgrass or Respondent) records and facilities in Lakewood, Colorado.

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated December 7, 2021, a Notice of Probable Violation, Proposed Civil Penalty and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice alleged that Respondent committed probable violations of nine provisions of 49 C.F.R. Part 192 (Items 2, 3, 5, 6, 8-12), proposed ordering Respondent to take certain measures to correct the alleged violations, and pay a proposed civil penalty in the amount of \$359,900 associated with those items. Three other items (Items 1, 4, and 7) were brought as warnings requiring no further action by Respondent.

In response to the Notice and without admission, Respondent elected not to contest any of the underlying allegations and requested a hearing only as to the proposed civil penalty for Items 6, 10, and 12, and the proposed compliance order actions for Items 6, 9, 10, 11, and 12 (Response). Respondent also asked for the opportunity to meet informally with PHMSA to discuss the issues raised. Respondent and PHMSA (the Parties) subsequently met on several occasions to discuss the issues raised in the Response. As a result of those discussions and without admission, Respondent has agreed to withdraw its hearing request and accept the findings of violation in the Notice, subject to the clarifications as set forth below, pay a reduced civil penalty in the amount of **\$324,382** for Items 2, 3, 5, 6, 8, 10, and 12, and to undertake certain corrective measures.

Having agreed that settlement of this enforcement action will avoid further administrative proceedings or litigation and will serve the public interest by promoting safety and protection of

the environment, pursuant to 49 C.F.R. Part 190, and upon consent and agreement of Respondent and PHMSA, the Parties hereby agree as follows:

I. General Provisions:

1. Respondent acknowledges that as the operator of the pipeline facilities subject to the Notice, Respondent and its referenced natural gas pipeline facilities are subject to the jurisdiction of the Federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.*, and the regulations and administrative orders issued thereunder. For purposes of this Agreement, Respondent acknowledges that it received proper notice of PHMSA's action in this proceeding and that the Notice states claims upon which relief may be granted pursuant to 49 U.S.C. § 60101, *et seq.*, and the regulations and orders issued thereunder.

2. After Respondent returns this signed Agreement to PHMSA, the Agency's representative will present it to the Associate Administrator for Pipeline Safety, recommending that the Associate Administrator adopt the terms of this Agreement by issuing an administrative order (Consent Order) incorporating the terms of this Agreement. The terms of this Agreement constitute an offer of settlement until accepted by the Associate Administrator. Once accepted, the Associate Administrator will issue a Consent Order incorporating the terms of this Agreement.

3. Respondent consents to the issuance of the Consent Order, and hereby waives any further procedural requirements with respect to its issuance. Respondent waives all rights to contest the adequacy of notice, or the validity of the Consent Order or this Agreement, including all rights to administrative or judicial hearings or appeals, except as set forth herein.

4. This Agreement shall apply to and be binding upon PHMSA and Respondent, its officers, directors, and employees, and its successors, assigns, or other entities or persons otherwise bound by law. Respondent agrees to provide a copy of this Agreement and any incorporated work plans and schedules to all of Respondent's officers, employees, and agents whose duties might reasonably include compliance with this Agreement.

5. This Agreement constitutes the final, complete and exclusive agreement and understanding between the Parties with respect to the settlement embodied in this Agreement. The Parties acknowledge that there are no representations, agreements or understandings relating to settlement other than those expressly contained in this Agreement, except that the terms of this Agreement may be construed by reference to the Notice.

6. Nothing in this Agreement affects or relieves Respondent of its responsibility to comply with all applicable requirements of the Federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.*, and the regulations and orders issued thereunder. Nothing in this Agreement alters PHMSA's right of access, entry, inspection, and information gathering or PHMSA's authority to bring enforcement actions against Respondent pursuant to the Federal pipeline safety laws, the regulations and orders issued thereunder, or any other provision of Federal or State law.

7. For all transfers of ownership or operating responsibility of Respondent's pipeline system referenced herein, Respondent will provide a copy of this Agreement to the prospective

transferee at least 30 days prior to such transfer. Respondent will provide written notice of the transfer to the PHMSA Central Regional Director no later than 60 days after the transfer occurs.

8. This Agreement does not waive or modify any Federal, State, or local laws or regulations that are applicable to Respondent's pipeline systems. This Agreement is not a permit, or a modification of any permit, under any Federal, State, or local laws or regulations. Respondent remains responsible for achieving and maintaining compliance with all applicable Federal, State, and local laws, regulations and permits.

9. This Agreement does not create rights in, or grant any cause of action to, any third party not party to this Agreement. The U.S. Department of Transportation is not liable for any injuries or damages to persons or property arising from acts or omissions of Respondent or its officers, employees, or agents carrying out the work required by this Agreement.

Respondent agrees to hold harmless the U.S. Department of Transportation, its officers, employees, agents, and representatives from any and all causes of action arising from any acts or omissions of Respondent or its contractors in carrying out any work required by this Agreement.

10. Respondent neither admits nor denies any allegation or conclusion in the Notice or this Agreement but agrees for purposes of this Agreement to comply with the terms of this Agreement.

11. Upon issuance of the Consent Order, the Parties agree to the following terms.

II. Warning Items:

12. ***Item 1: 49 C.F.R. § 191.5(c)***: The Notice alleged that Respondent failed to provide a National Response Center (NRC) update within 48-hours, following an instance where Respondent submitted an update within 96 hours. This item was brought as a warning requiring no further action by Respondent. This Warning Item does not constitute a finding of violation for any purpose, and no further action by Respondent is necessary to achieve compliance.

13. ***Item 4: 49 C.F.R. § 192.465(b)***: The Notice alleged that Respondent failed to inspect three cathodic protection rectifiers at the requisite intervals of six times each calendar year, but at intervals not exceeding two and a half months, which Respondent disclosed to PHMSA as part of a November 18, 2020, letter to PHMSA summarizing self-report items, associated updates, and steps taken to remedy the underlying issues (Self-Report). This item was brought as a warning requiring no further action by Respondent. This Warning Item does not constitute a finding of violation for any purpose, and no further action by Respondent is necessary to achieve compliance.

14. ***Item 7: 49 C.F.R. § 192.605(a)***: The Notice alleged one instance where Respondent failed to follow its manual of written procedures for conducting operations and maintenance activities which requires that certain maps and records regarding pipeline materials be maintained for its Trenton Lateral pipeline. Respondent performed material verification digs on the Trenton Lateral pipeline during the inspection to confirm the pipe specifications, and

Respondent updated its system of record accordingly. This item was brought as a warning requiring no further action by Respondent. This Warning Item does not constitute a finding of violation for any purpose, and no further action by Respondent is necessary to achieve compliance.

III. Findings of Violation:

15. **Item 2: 49 C.F.R. § 192.463(a):** The Notice alleged four instances where Respondent failed to maintain a level of cathodic protection that complies with one of the applicable criteria contained in Appendix D of Part 192. Respondent disclosed these issues to PHMSA as part of its Self-Report and undertook a number of measures to resolve the issues, including an unplanned CIS and immediate test point surveys to confirm CP levels, all of which confirmed no immediate safety issues, increasing or upgrading rectifier outputs, and installation of Remote Monitoring Units. Respondent did not contest this allegation of violation and PHMSA finds a violation of 49 C.F.R. § 192.463(a). This violation may be considered by PHMSA as a prior offense in any future PHMSA enforcement action taken against Respondent.

16. **Item 3: 49 C.F.R. § 192.465(a):** The Notice alleged that Respondent failed to test certain electrical test stations along its pipeline at the required intervals for calendar years 2016-2019, which Respondent disclosed to PHMSA as part of its Self-Report. All of the test stations at issue were tested within two weeks of disclosure and all collected readings met regulatory criteria. Respondent did not contest this allegation of violation and PHMSA finds a violation of 49 C.F.R. § 192.465(a). This violation may be considered by PHMSA as a prior offense in any future PHMSA enforcement action taken against Respondent.

17. **Item 5: 49 C.F.R. § 192.465(c):** The Notice alleged that Respondent failed to electrically check for proper performance of critical bonds of four pipeline segments. Respondent disclosed these issues to PHMSA as part of its Self-Report, which included a summary of the steps taken by Respondent to complete the electrical checks of the critical bonds of the four pipeline segments. Respondent did not contest this allegation of violation and PHMSA finds a violation of 49 C.F.R. § 192.465(c). This violation may be considered by PHMSA as a prior offense in any future PHMSA enforcement action taken against Respondent.

18. **Item 6: 49 C.F.R. § 192.481(a):** The Notice alleged that Respondent failed to inspect two pipeline spans for atmospheric corrosion at least once every 3 calendar years, but with intervals not to exceeding 39 months. Specifically, Respondent did not provide records during PHMSA's inspection of the requisite corrosion inspection records prior to August 24, 2020 for the Lingle to State Line segment, and between June 9, 2019 and August 24, 2020 for the Douglas Plant to Ogallala segment. In response to a post-inspection records request, Respondent provided a list in its Self-Report identifying missed corrosion inspections on the Lingle to State Line segment at 38 locations in 2017 and one location in 2019. As summarized for PHMSA, Respondent conducted inspections of all spans in 2020 and clarified responsibilities for documentation requirements. Respondent did not contest this allegation of violation and PHMSA finds a violation of 49 C.F.R. § 192.481(a). This violation may be considered by PHMSA as a prior offense in any future PHMSA enforcement action taken against Respondent.

19. **Item 8: 49 C.F.R. § 192.605(a):** The Notice alleged that Respondent failed to follow its manual of written procedures for conducting inspections for electrical isolation of pipeline casings at least once each calendar year, not to exceed 15 months, which Respondent disclosed to PHMSA as part of its Self-Report and summarized the actions taken by Respondent to complete casing patrols and readings at the subject locations. Respondent did not contest this allegation of violation and PHMSA finds a violation of 49 C.F.R. § 192.605(a). This violation may be considered by PHMSA as a prior offense in any future PHMSA enforcement action taken against Respondent.

20. **Item 9: 49 C.F.R. § 192.605(b)(1)(8):** The Notice alleged that Respondent failed to prepare and follow written procedures for maintenance and normal operations relating to corrosion control survey information and data collection. Respondent self-identified and self-reported these issues following their discovery on November 18, 2020, which was limited to one of its operating regions. To address the issues underlying the self-report, Respondent undertook remedial measures and planned additional remedial measures as detailed in the self-report submitted to PHMSA. Respondent did not contest this allegation of violation and PHMSA finds a violation of 49 C.F.R. § 192.605(b)(1)(8). This violation may be considered by PHMSA as a prior offense in any future PHMSA enforcement action taken against Respondent.

21. **Item 10: 49 C.F.R. § 192.706(a):** The Notice alleged that Respondent failed to conduct leak detection surveys in a non-odorized Class 3 location using acceptable leak detector equipment from 2017 through 2019 on Line Number 740-002-00-00, at Holyoke, Colorado. As discussed and reflected in documents provided during the informal conferences, Respondent provided a list of the unodorized Class 3 locations in which it used the prior leak detector equipment and conducted subsequent leak surveys of those locations with appropriate leak detection equipment. Respondent did not contest this allegation of violation and PHMSA finds a violation of 49 C.F.R. § 192.706(a). This violation may be considered by PHMSA as a prior offense in any future PHMSA enforcement action taken against Respondent.

22. **Item 11: 49 C.F.R. § 192.805(h):** The Notice alleged that Respondent failed to provide training to ensure that individuals performing leakage surveys have the necessary knowledge and skills to perform the leakage survey in a manner required by § 192.706, including the appropriate leak detector equipment capable of detection leaks. Respondent did not contest this allegation of violation and PHMSA finds a violation of 49 C.F.R. § 192.805(h). This violation may be considered by PHMSA as a prior offense in any future PHMSA enforcement action taken against Respondent.

23. **Item 12: 49 C.F.R. § 192.911(a):** The Notice alleged that Respondent's integrity management program failed to identify pipeline segments and pipeline facilities in high consequence areas (HCAs) prior to calendar year 2020. As demonstrated by the additional documents provided to PHMSA since issuance of the Notice, Respondent initiated the development of a gas facility integrity management (IM) program in 2019 which was codified in March 2020, and through implementation, Respondent identified mainline HCAs and incorporated new facility HCAs into its IM program, with improvements made to include facility piping. Respondent did not contest this allegation of violation and PHMSA finds a violation of 49 C.F.R. § 192.911(a). This violation may be considered by PHMSA as a prior offense in any future PHMSA enforcement action taken against Respondent.

IV. Civil Penalty:

24. **Item 10:** The Notice proposed assessing a civil penalty in the amount of \$58,400 for Item 10. In its Response, and during the informal meetings between the Parties, Respondent provided additional information regarding its belief that the device at issue was sufficient for leak detection under the regulations. Based on the information provided, PHMSA agrees to reduce the proposed civil penalty in consideration of the Respondent's good faith. As such, Respondent shall pay a reduced civil penalty in the amount of **\$41,126**.

25. **Item 12:** The Notice proposed assessing a civil penalty in the amount of \$63,900 for Item 12. In its Response, and during the informal meetings between the Parties, Respondent provided additional information related to the steps it undertook prior to the inspection to identify facility HCAs and assess mainline pipe including within facilities, and actions it was taking to incorporate the facility piping into its integrity management program. Based on the information provided, PHMSA agrees to reduce the proposed civil penalty under the good faith factor. As such, Respondent shall pay a reduced civil penalty in the amount of **\$46,656**.

26. **Items 2, 3, 5, 6, and 8:** The Notice proposed penalties for probable violations associated with Items 2, 3, 5, 6, and 8, in the amount of **\$237,600**. Respondent did not contest these proposed penalties.

27. Respondent shall pay a total civil penalty in the amount of **\$324,382**, to be paid in full no later than 20 days from the **Effective Date** of this Agreement.

V. Compliance Order:

28. The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice for Items 6, 9, 10, 11, and 12. Respondent did not contest the Proposed Compliance Order, but requested certain clarifications.

29. With respect to the Proposed Compliance Order obligations for Item 10, the Parties agree that Respondent demonstrated that it has satisfied the terms of the Proposed Compliance Order with respect to this Item by (a) identifying and providing a list to PHMSA of the unodorized Class 3 locations which used the Gas Alert Max leak detection equipment, and (b) conducting a leak survey of the unodorized pipelines in Class 3 locations with leak detection equipment designed and calibrated to identify leaks on underground pipelines.

30. Accordingly, as agreed to by the Parties, Respondent must undertake the following corrective measures for Items 6, 9, 10, 11 and 12:

- A. In regards to Item 6 of the Notice pertaining to the inspection of each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every 3 calendar years, but with intervals not to exceeding 39 months, Respondent must:
 1. Provide the Central Region Director with a list of all the spans exposed to the atmosphere in the western district of the Rocky Mountain Operating Region

and the associated atmospheric inspection records within **60** days of the *Effective Date* of this Consent Agreement.

2. Provide a procedure modification to the Central Region Director for approval to ensure complete atmospheric inspections are accomplished and records are maintained going forward within **60** days of the *Effective Date* of this Consent Agreement.
- B. In regards to Item 9 of the Notice pertaining to the review of the effectiveness and adequacy of corrosion control procedures used in normal operation and maintenance activities per § 192.605(b)(8), Respondent must:
1. Perform a review of current corrosion control process and procedures contained in its operations and maintenance manual. The review must be performed by personnel not involved in the work or the operations being reviewed. The evaluation method should also allow the operator to objectively evaluate the strengths and weaknesses of its personnel and processes that support each of the elements of the corrosion control process and procedures contained in the operations and maintenance manual, as well as areas needing improvement. Respondent shall provide a plan for approval to the Central Region Director identifying the review criteria, scope, frequency, and methods used to assess the application of and conformance with current corrosion control process and procedures in Respondent's operation and maintenance manual within **90** days of the *Effective Date* of this Consent Agreement.
 2. Within **365** days of the *Effective Date* of this Consent Agreement, Respondent shall provide a schedule for addressing identified areas of concern. The management responsible for the area being reviewed or evaluated shall ensure that findings are addressed within the defined response times.
 3. Respondent shall submit a summary of the corrective actions taken to address the areas of concern quarterly to the Central Region Director until closure of the Consent Agreement.
- C. In regards to Item 11 of the Notice pertaining to Respondent failing to provide training to ensure that individuals performing leakage surveys have the necessary knowledge and skills to perform the leakage survey in a manner required by § 192.706, Respondent must develop and commence training to ensure that personnel are equipped with the knowledge of using the appropriate leak detection equipment for relevant tasks within **90** days of the *Effective Date* of this Consent Agreement.
- D. In regards to Item 12 of the Notice pertaining to Respondent failing to identify pipeline segments in high consequence areas including pipeline facilities prior to calendar year 2020, Respondent must:

1. Provide a plan which will outline Respondent's enhancements to its existing HCA facility screening process, including an outline of documentation to reflect the enhancements, for approval to review by the Central Regional Director within **120** days of the ***Effective Date*** of this Consent Agreement.
2. Identify and incorporate any additional facility HCAs using the enhanced HCA facility screening process set forth in D.1. above into Respondent's Facility Integrity Management Plan within **365** days of the ***Effective Date*** of this Consent Agreement.

VI. Enforcement:

31. This Agreement is subject to all enforcement authorities available to PHMSA under 49 U.S.C. § 60101, *et seq.*, and 49 C.F.R. Part 190, including administrative civil penalties under 49 U.S.C. § 60122, of up to \$225,134 per violation for each day the violation continues and referral of the case to the Attorney General for judicial enforcement, if PHMSA determines that Respondent is not complying with the terms of this Agreement in accordance with determinations made by the Director, or if appealed, in accordance with decisions of the Associate Administrator. The maximum civil penalty amounts are adjusted annually for inflation. *See* 49 C.F.R. § 190.223.

VII. Dispute Resolution:

32. The Director and Respondent will informally attempt to resolve any disputes arising under this Agreement, including but not limited to any decision of the Director. If Respondent and the Director are unable to informally resolve the dispute within 15 calendar days after the dispute is first raised, in writing, to the Director, Respondent may submit a written request for a determination resolving the dispute from the Associate Administrator for Pipeline Safety, PHMSA. Such request must be made in writing and provided to the Director, counsel for the Central Region, and to the Associate Administrator for Pipeline Safety, no later than 10 calendar days from the 15 day deadline for informal resolution referenced in this paragraph. Along with its request, Respondent must provide the Associate Administrator with all information Respondent believes is relevant to the dispute. Decisions of the Associate Administrator under this paragraph will constitute final agency action. The existence of a dispute and PHMSA's consideration of matters placed in dispute will not excuse, toll, or suspend any term or timeframe for completion of any work to be performed under this Agreement during the pendency of the dispute resolution process, except as agreed by the Director or the Associate Administrator in writing, or ordered by a court of competent jurisdiction.

VIII. Effective Date:

33. The term "Effective Date," as used herein, is the date on which the Consent Order is issued by the Associate Administrator, PHMSA, incorporating the terms of this Agreement.

IX. Modification:

34. The terms of this Agreement may be modified by mutual agreement of the Parties. Such modifications must be in writing and signed by both parties.

X. Ratification:

35. The Parties' undersigned representatives certify that they are fully authorized to enter into the terms and conditions of this Agreement and to execute and legally bind such party to this document.

The Parties hereby agree to all conditions and terms of this Agreement.

[Signature Lines on Following Page]

For Tallgrass Interstate Gas Transmission, LLC:



Date April 11, 2022

For PHMSA:

GREGORY ALAN OCHS

Digitally signed by GREGORY ALAN OCHS Date: 2022.04.08 14:54:05 -05'00'

Director, Central Region, Office of Pipeline Safety



Date April 8, 2022