



July 16, 2025

By Electronic Mail

Mr. David Barrett
Acting Director – Central Region
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
901 Locust Street, Suite 480
Kansas City, MO 64106
Dave.Barrett@dot.gov

Re: **CPF 3-2025-008-NOPV-PCO – PXP-PRG-TMID – Request for Hearing and Settlement Conference**

Acting Director Barrett,

On behalf of Pony Express Pipeline (PXP), Tallgrass Midstream (TMID), and Powder River Gateway (PRG), which are all subsidiaries of Tallgrass Energy, LP (Tallgrass or the Company), the purpose of this letter is to provide (1) the Company's response to the above-referenced Notice of Probable Violation (NOPV), and (2) the Company's request for a hearing to address the factual and legal issues presented by the NOPV pursuant to 49 C.F.R. §§ 190.208 and 190.211. In the attached response, Tallgrass is respectfully contesting three (3) probable violations (Items 1, 2, and 5) and one warning item (Item 3) asserted against PXP, including the PCO requirements associated with Items 1 and 2, and the Proposed Civil Penalty associated with Item 5. Tallgrass, on behalf of TMID, has elected not to contest the remaining warning item alleged against TMID (Item 4).

Tallgrass and its subsidiary operating companies are committed to prioritizing pipeline safety and integrity. In keeping with that commitment and without admission, Tallgrass respectfully requests an informal settlement meeting with the Central Region. Tallgrass also requests that the scheduling of a hearing be postponed to allow the parties sufficient time to engage in settlement discussions. In advance of the requested settlement meeting or hearing (should it be necessary), and pursuant to 49 C.F.R. § 190.209, Tallgrass requests a copy of the complete case file in this matter, beyond the Proposed Civil Penalty Worksheet and the Pipeline Safety Violation Report which have already been provided. This request includes any exculpatory evidence in PHMSA's possession related to this action, consistent with the Agency's *Revised Procedures for Determining the Contents of the Case File in Pipeline Safety Enforcement Proceedings* (May 29, 2025).

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Stephens".

Danielle Stephens
Director, PHMSA Compliance, Codes & Standards
Danielle.stephens@Tallgrass.com
713.725.0147

cc: Crystal Heter, Tallgrass Energy, LP
Kale Stanton, Tallgrass Energy, LP
Jay Meyers, Tallgrass Energy, LP
Jarid Kling, Tallgrass Energy, LP
Nicole Longwell, Esq., Tallgrass Energy, LP
Catherine Little, Esq., Bracewell LLP
Annie Cook, Esq., Bracewell LLP
Mandi Moroz, Esq., Bracewell LLP

**Before the
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
Office of Pipeline Safety
Washington, D.C.**

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In the Matter of	)	
	)	
Tallgrass Energy, LP,	)	CPF No. 3-2025-008-NOPV
	)	Notice of Probable Violation
	)	
Respondent.	)	
_____	)	

**TALLGRASS ENERGY, LP RESPONSE TO NOPV,
AND REQUEST FOR HEARING AND SETTLEMENT CONFERENCE**

I. Introduction

On June 16, 2025, the U.S. Department of Transportation's (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA or the Agency) issued a Notice of Probable Violation (NOPV), Proposed Civil Penalty, and Proposed Compliance Order (PCO) to three (3) separate operating entities – Pony Express Pipeline (PXP), Tallgrass Midstream (TMID), and Powder River Gateway (PRG) – all of which are subsidiaries of Tallgrass Energy, LP (Tallgrass or the Company). The NOPV was issued following PHMSA's inspection of these entities in Colorado, Kansas, Nebraska, and Wyoming from March 7, 2023, to December 1, 2023. As a result of the inspection, PHMSA alleged three (3) probable violations and one (1) warning item against PXP (Items 1, 2, 3 and 5), and one (1) warning item against TMID (Item 4). None of the allegations were brought against PRG.¹

As explained in more detail below, on behalf of PXP, TMID, and PRG, Tallgrass is respectfully contesting three (3) probable violations (Items 1, 2, and 5) and one warning item (Item 3) asserted against PXP, including the PCO requirements associated with Items 1 and 2, and the Proposed Civil Penalty associated with Item 5. Tallgrass maintains that these alleged violations, associated PCO requirements, and Proposed Civil Penalty are unwarranted and should be withdrawn in light of the facts at issue, documentation provided, and applicable law. Further, these allegations are based on recordkeeping obligations, which have no bearing on the safety or integrity of the relevant assets and/or relate to items that were either already identified or being addressed by Tallgrass or its subsidiaries prior to or at the time of PHMSA's inspection. For these reasons, enforcement of these allegations violates basic principles of fairness and DOT's and PHMSA's enforcement policies and procedures.² With respect to the warning item alleged against TMID (Item 4), on behalf of TMID and without admission, Tallgrass has elected not to contest that allegation and is providing additional clarifications related to TMID's efforts to address that item below.

Tallgrass and its subsidiary operating companies are committed to prioritizing pipeline safety and integrity. In keeping with that commitment and given the nature of these alleged violations, Tallgrass believes the contested issues are capable of resolution and, without admission respectfully requests an informal settlement meeting with the Central Region. To preserve its rights in the event the parties are unable to resolve this matter through settlement, Tallgrass on behalf of its subsidiaries is filing this response pursuant to 49 C.F.R. §§ 190.208 and 190.211 to request a hearing to address the factual and legal issues presented by the NOPV. Tallgrass requests that the scheduling of a hearing be postponed to provide the parties sufficient opportunity to engage in settlement discussions. In the event the parties proceed to a hearing, Tallgrass will be represented by in-house counsel as well as outside counsel with Bracewell LLP, and Tallgrass intends to have a court reporter prepare a transcript of the hearing pursuant to 49 C.F.R. § 190.211(f).

¹ Tallgrass requests that PHMSA clarify the record to ensure that alleged violations are properly associated with the correct operating entity. The NOPV and the Pipeline Safety Violation Report (PSVR) fail to clearly indicate which allegations are alleged against which specific operating entity, and none have been asserted against PRG. *See, e.g.*, NOPV Item 1 (alleging a violation against "Tallgrass" based on an alleged violation identified on a PXP asset but does not clearly identify PXP).

² Cote Memorandum, *Procedural Requirements for DOT Enforcement Actions* (Mar. 11, 2025).

II. Tallgrass Written Response to PHMSA NOPV Allegations

A. Uncontested Item – Item 4 (49 C.F.R. §195.452 (d)(1) (Warning Item))

Tallgrass, on behalf of TMID, does not contest NOPV Item 4. In this warning item, PHMSA alleges that TMID incorrectly used an HVL buffer distance rather than a lower flammability limit to identify High Consequence Areas (HCAs) on a portion of its system. After this discrepancy was identified, TMID promptly corrected the issue and conducted a gap analysis to assess the impact. The gap analysis demonstrated that the discrepancy only minimally impacted the application of TMID's integrity management program, and – as noted in PHMSA's preliminary inspection findings – had no effect on the application of TMID's operations, leak detection, or preventive and mitigative measures. To further improve its processes, Tallgrass has updated its Standard Operating Procedure, SOP-AI2: Hazardous Liquid HCA Validation Process, to include additional quality control and assurance measures to ensure that the proper calculations and formulas are used to identify HCAs.

B. Contested Items – NOPV Items 1, 2, 3 and 5

Tallgrass respectfully requests that Items 1, 2, 3, and 5 be withdrawn, including the associated Proposed Civil Penalty for Item 5 and the PCO requirements for Items 1 and 2, on the basis that these items are unsupported by the facts and the law. As explained below and set forth in the record, Tallgrass complied with the relevant regulations according to the clear text of the requirements. Further, a majority of the contested allegations inappropriately derive from Tallgrass's proactive efforts to improve its pipeline safety programs – without admission – either in response to suggestions from PHMSA or self-identified improvements discussed with PHMSA. The fact that Tallgrass was undertaking programmatic improvements related to the legal regulatory obligations at issue is not sufficient evidence of a violation, but rather the exact type of unreasonable fishing expedition or game of gotcha that DOT policy prohibits.³

1. Item 1 (49 C.F.R. § 195.307(c)) (PCO Requirement)

PHMSA Allegation

Tallgrass failed to pressure test aboveground breakout tanks built to API Standard 650 that were first placed into service after October 2, 2000, in accordance with API Standard 650 section 7.3.6, "Hydrostatic Testing Requirements," per the requirements of § 195.307. Specifically, Tallgrass failed to provide pressure testing records demonstrating that testing was done in accordance with API Standard 650, section 7.3.6. Per API Standard 650 section 7.3.6, settlement readings are required to be taken 24 hours after the tank has been filled to the maximum height. Tallgrass' records stated that tank 4251 at Buckingham Station was filled to 28.38 feet on February 8, 2021, however Tallgrass did not take settlement readings 24-hours after the maximum height of 28.38 feet was achieved. Additionally, Tallgrass was unable to provide pressure testing records for tank 4252 when asked by PHMSA's April 1, 2024, Request for

³ *Id.*

Specific Information. Therefore, Tallgrass failed to adequately test the breakout tanks 4251 and 4252 at Buckingham Station in accordance with § 195.307.

Tallgrass Response

Tallgrass, on behalf of PXP, contests this allegation, including inaccurate representations in the NOPV, and the associated PCO requirement. The Buckingham Terminal Tanks 4251 and 4252 were tested in 2020 in accordance with 49 C.F.R. § 195.307(c) and API Standard 650 (11th edition) incorporated by reference at the time. As demonstrated by documentation provided to PHMSA during the inspection, PXP complied with the testing requirements by conducting alternative testing to verify the integrity of both tanks.

At the time that the tanks were constructed, PHMSA's regulations required that operators test any tanks built to API Standard 650 in accordance with Sections 7.3.5 and 7.3.6 of the 11th edition of that standard.⁴ Section 7.3.5 of the 11th edition includes an exemption that allows operators to (1) forgo hydrostatic testing of newly constructed breakout tanks when "sufficient water to fill the tank is not available," and (2) conduct certain alternative testing to verify the integrity of tank. API Standard 650 at 7.3.5.2. PHMSA has expressly recognized this exemption in prior enforcement.⁵

As demonstrated by documentation provided by PXP during PHMSA's inspection, sufficient water volumes to perform the hydrostatic testing were not available at the time the tanks were tested. As permitted by Section 7.3.5.2 of API Standard 650, PXP instead employed a penetrant testing method for Tanks 4251 and 4252, whereby all internal shell weld joints were coated with a high penetration oil and exterior surfaces carefully inspected for any signs of leakage. Because PXP properly tested the tank in accordance with the exemption in Section 7.3.5.2, there is no basis for PHMSA's assertion of a violation of 49 C.F.R. § 195.307, and PXP requests that this allegation be withdrawn along with the overly burdensome and unwarranted PCO requirement. The PCO requirement would require PXP to unnecessarily conduct additional pressure testing of the tanks without any additional safety benefit, given that the initial testing, continued operations, and most recent in-service inspections of these tanks demonstrate their integrity.

2. Item 2 (49 C.F.R. § 195.402 (a)) (PCO Requirement)

PHMSA Allegation

Tallgrass failed to prepare and follow its manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies, per the requirements of § 195.402(a). Specifically, Tallgrass failed to create a comprehensive pump station emergency shutdown system (ESD) procedure for the Buckingham Station as prescribed

⁴ See Pipeline Safety: Periodic Updates to Regulatory References to Technical Standards and Miscellaneous Edits, 75 Fed. Reg. 48593 (Aug. 11, 2010) (replacing the 10th edition of API Standard 650 with the 11th edition of the standard); Pipeline Safety: Periodic Updates to Regulatory References to Technical Standards and Miscellaneous Amendments, 89 Fed. Reg. 33264 (Apr. 29, 2024) (replacing the 11th edition of API Standard 650 with the 13th edition of the standard).

⁵ See In re: Phillips 66 Pipeline, LLC, CPF No. 4-2022-006-NOPV (Sept. 16, 2022).

in Tallgrass' procedure "OM500_L." Tallgrass is required to prepare site specific ESD procedures "for all Department of Transportation (DOT) regulated pump facilities," according to "OM500_L," to include sections 3.2, "Power Supply," 3.4, "Valves," and 3.5, "SCADA Monitoring." However, at the time of the inspection, the Buckingham Station ESD procedures did not include the requirements of "OM500_L," sections 3.2, 3.4, and 3.5. Without developing a specific procedure for the Buckingham Station, Tallgrass violated §195.402 by failing to follow all of its procedures.

Tallgrass Response

Tallgrass, on behalf of PXP, contests this allegation and the associated PCO requirement, including the misrepresentation that PXP "failed to create a comprehensive pump station [ESD] procedure for the Buckingham Station[.]" PXP has long maintained a Buckingham Station site-specific Emergency Shutdown (ESD) procedure since commissioning the facility in 2016 – well in advance of PHMSA's 2023 inspection – that complies with 49 C.F.R. § 195.402(a) and Tallgrass procedure OM500_L. This ESD procedure has been inspected by PHMSA during prior inspections at the facility, and PHMSA has never previously identified any deficiencies with it.

During the inspection underlying this action, PHMSA did not identify any deficiencies with the procedure that would constitute a violation of either 49 C.F.R. § 195.402 or OM500_L, nor were there any allegations that field technicians were unable to follow the procedure. Rather, PHMSA inspectors provided subjective feedback to make the procedure easier for field technicians to follow, which PXP incorporated without admission during the inspection in the spirit of continuous improvement. As a result, Tallgrass requests that PHMSA withdraw this allegation along with the associated PCO given that the site specific ESD procedure requested was and is already in place.

3. Item 3 (49 C.F.R. § 195.402 (d)(1)(iv)) (Warning Item)

PHMSA Allegation

Tallgrass failed to respond to, investigate, and correct the cause of the operation of a safety device, per the requirements of § 195.402(d)(1)(iv). Specifically, Tallgrass failed to identify the operation of a safety device that resulted in an immediate shutdown (ISD) of the Tallgrass Pony Express Pipeline (PXP) pipeline as an abnormal operation (AO). From a review of Tallgrass' Emergency Response Line (ERL) records, PHMSA identified that ERL 2235, 3602, and 4213 (in years 2020, 2021, and 2022, respectively) resulted in the operation of a safety device that caused an ISD as an AO. The operation of any safety device is an AO, per § 195.402(d)(iv). These AOs occurred at the Sterling Station while using the "PXP - Sterling Terminal 22" Pig Load/Launch" Procedure (September 28, 2017). Tallgrass was unable to provide any records following these three AOs demonstrating that it (1) responded to, (2) investigated, or (3) corrected the cause of the operation of a safety device in these instances. Therefore, Tallgrass violated § 195.402(d) by not identifying these ERLs as AOs.

Tallgrass Response

On behalf of PXP, Tallgrass contests this allegation as without any basis in law or fact. PXP responded to, investigated, and corrected the cause of all three (3) abnormal operations (AOs) referenced in Item 3, as reflected in documentation provided to PHMSA. The regulation 49 C.F.R. § 195.402(d)(1)(iv) does not mandate a prescriptive process for investigating and correcting AOs. PHMSA's allegation, however, is based solely on legacy documentation that Tallgrass proactively identified for purposes of continuous improvement which show that (1) Tallgrass implemented comprehensive changes to effectuate those improvements, and (2) discussed those changes at length with the PHMSA Central Region before the inspection. There is simply no basis for issuing enforcement against an operator that proactively identifies process improvements under development in advance of the inspection and in coordination with PHMSA.

The three (3) AOs identified in the NOPV were documented as Emergency Response Line (ERL) Notifications and were provided to PHMSA during the inspection. As required by 49 C.F.R. § 195.402(d)(1)(iv), those records demonstrate that PXP appropriately identified the events in question at the time of their occurrence as AOs, conducted investigations of the AOs in accordance with its internal procedures, and responded to the AOs in order to resolve their underlying cause.

In the interest of continuous improvement, Tallgrass recognized that its processes for tracking and documenting the Company's response to AOs could be improved by implementing more comprehensive process safety tracking tools. Prior to PHMSA's inspection, the Company began to implement new tracking tools to improve the Company's documentation of AO events. Tallgrass met with the Central Region one week before the underlying inspection to provide an overview of the Company's process improvements and ongoing efforts to improve its AO documentation. Tallgrass provided updates to PHMSA about this ongoing effort towards the end of the inspection in November 2023. Over time, those efforts led to the development of a comprehensive Process Safety Event Tracking Tool (PSET).

PHMSA's allegation is based on legacy documentation that the Company was proactively improving prior to PHMSA's inspection, and which was identified by the Company. This allegation is unwarranted and inconsistent with Agency enforcement policy, which expressly provides that DOT agencies "responsible for inspections and other investigative functions must not use these authorities as a game of 'gotcha' with regulated entities." As a result, this allegation should be withdrawn.⁶

4. Item 5 (§ 195.583 (b)) (Proposed Civil Penalty – \$39,100)

PHMSA Allegation

Tallgrass failed to give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water, per the requirements of § 195.583(b). Specifically,

⁶ Even though this allegation is brought as a warning item, which PHMSA has previously indicated is complete upon issuance, Tallgrass believes that withdrawal of this allegation is warranted because it is without any basis in law or fact and violates basic tenants of fairness.

from a review of Tallgrass' records from the 2022 atmospheric corrosion inspection, coupled with PHMSA's field observations during the inspection, PHMSA determined that Tallgrass failed to inspect for atmospheric corrosion under thermal insulation at the Guernsey North station. After the inspection, Tallgrass installed view ports on the insulation and performed an inspection with records provided to PHMSA. PHMSA found these measures satisfactory to meet compliance and therefore no further action is necessary.

Tallgrass Response

Tallgrass, on behalf of PXP, contests this allegation and the associated Proposed Civil Penalty. After conducting the atmospheric corrosion inspection at the North Guernsey Station in 2022 and in advance of PHMSA's inspection, Tallgrass significantly revamped its atmospheric corrosion inspection program, including by (1) requiring that these inspections be conducted by personnel within the Company's corrosion group, and (2) revising its procedure to improve its processes for conducting and documenting inspections on pipe under insulation. The improved procedure was implemented on a going forward basis, and was used during the next regularly scheduled inspection of the North Guernsey Station at the end of 2023, which occurred shortly after PHMSA's inspection. Although PHMSA's inspection concluded before PXP's next scheduled inspection took place, PXP provided information to PHMSA during the Agency's inspection related to the Company's improved atmospheric corrosion inspection procedures and informed PHMSA that the next scheduled inspection for the North Guernsey Station was to be completed before the end of 2023. Supporting documentation confirming completion of that inspection and any required repairs was provided to PHMSA.

Given that PXP inspected the location in 2022 and was scheduled to inspect the location at the end of 2023 consistent with its enhanced procedures, PXP requests that this allegation and the associated Proposed Civil Penalty be withdrawn. When issuing a Proposed Civil Penalty associated with an alleged violation, PHMSA is required to consider "fairness, the scale of the violation, the violator's knowledge and intent, and any mitigating factors[.]"⁷ In this instance, PXP (1) revised its entire program to improve its atmospheric inspection program after the 2022 inspection at the North Guernsey Station, and (2) scheduled a subsequent inspection at that location, which was conducted in accordance with the Company's enhanced inspection procedures. The Company should not be penalized because PHMSA's inspection occurred before the atmospheric corrosion inspection at the North Guernsey Station could take place. There is no basis for issuing an alleged violation or a civil penalty against an operator that took proactive steps to improve its procedures and processes, and was in the process of implementing those improvements in the field.

⁷ Cote Memorandum, *Procedural Requirements for DOT Enforcement Actions* (Mar. 11, 2025).

III. Statement of Issues

Pursuant to 49 C.F.R. § 190.211(b), Tallgrass provides its statement of issues below, which it reserves the right to supplement and/or amend at or before the Hearing.

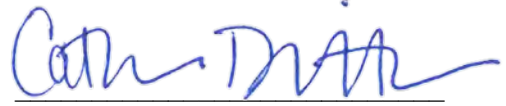
- A. Whether based on the facts and applicable law, PHMSA has met its burden to prove by a preponderance of the evidence that PXP did not comply with 49 C.F.R. §§ 195.307(c), 195.402(a), 195.402(d), and 195.583(b) as alleged in NOPV Items 1, 2, 3, and 5, respectively.
- B. Whether PHMSA's allegations of noncompliance under NOPV Items 1, 2, 3, and 5 are arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law in violation of the Administrative Procedure Act.
- C. Whether PHMSA provided due process and fair notice, as required by the U.S. Constitution and the Administrative Procedure Act, in issuing alleged violations for NOPV Items 1, 2, 3, and 5 based on the facts and the applicable law.
- D. Whether PHMSA's allegations of noncompliance under NOPV Items 1, 2, 3, and 5 and the associated PCO requirements and Proposed Civil Penalty violate basic principles of fairness and justice and are inconsistent with applicable DOT and PHMSA guidance, including but not limited to procedural requirements for enforcement actions as set forth in the Cote Memorandum, *Procedural Requirements for DOT Enforcement Actions* (Mar. 11, 2025).
- E. Whether the Proposed Compliance Order requirements associated with NOPV Items 1 and 2 are unwarranted or unduly burdensome in light of the applicable facts and law.
- F. Whether the Proposed Civil Penalty associated with NOPV Item 5 should be withdrawn or reduced to accurately reflect the statutory and regulatory penalty assessment criteria required under 49 U.S.C. § 60122(b) and 49 C.F.R. § 190.225, and any associated guidance.

IV. Request for Relief

For the reasons identified above, and in consideration of other matters as justice may require, Tallgrass, on behalf of PXP, respectfully requests that NOPV Items 1, 2, 3, and 5 be withdrawn in their entirety including the Proposed Civil Penalty for Item 5 of \$39,100 and the associated PCO obligations for Items 1 and 2. Without admission, Tallgrass and its subsidiaries respectfully request an informal settlement meeting with the Central Region to seek to resolve these issues in lieu of a hearing. In advance of the requested settlement meeting or hearing (should it be necessary), and pursuant to 49 C.F.R. § 190.209, Tallgrass requests a copy of the complete case file in this matter, beyond the Proposed Civil Penalty Worksheet and the Pipeline Safety Violation Report which have already been provided. This request includes any exculpatory evidence in PHMSA's possession related to this action, consistent with the Agency's *Revised Procedures for*

Determining the Contents of the Case File in Pipeline Safety Enforcement Proceedings (May 29, 2025).

Respectfully submitted,



Catherine D. Little

Annie M. Cook

Mandi Moroz

Bracewell LLP

2001 M St NW, Suite 900

Washington, DC

(202) 828-5800

Catherine.Little@Bracewell.com

Counsel for Tallgrass Energy, L.P.

Nicole Longwell

Associate General Counsel and Chief

Operations Compliance Officer

Tallgrass Energy, L.P.

370 Van Gordon Street

Lakewood, Colorado 80228

Date: July 16, 2025