PLAINS
PIPELINE, L.P.

July 2, 2012

Federal Express 7985 6704 2682 and Electronic Mail

Mr. R.M. Seeley
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration
8701 South Gessner, Suite 1110
Houston, Texas 77074

Re: Response to Notice of Probable Violation and Proposed Compliance Order; CPF 4-2012-5020

Dear Mr. Seeley:

This letter responds to the Notice of Probable Violation and Proposed Compliance Order (CPF 4-2012-5020) (NOPV/PCO) issued to Plains Pipeline, L.P. (Plains) regarding certain alleged violations of the Pipeline and Hazardous Materials Safety Administration (PHMSA) Pipeline Safety Regulations, Title 49, Code of Federal Regulations.[1] Plains is committed to operating its pipeline system safely and in accordance with applicable regulatory requirements. Moreover, we are committed to working with PHMSA to resolve this matter in a timely and equitable manner.

As recognized in the NOPV/PCO, the tanks at issue are not owned by Plains. The tanks are owned by ConocoPhillips and Valero, which own/operate the Alliance and Murphy refineries, respectively. Accordingly, this presents practical challenges to Plains' ability to access, inspect and test the equipment.

We understand that historically the U.S. Department of Transportation (DOT) and U.S. Environmental Protection Agency (EPA) have sought to coordinate their authority under the Clean Water Act to regulate facilities with both transportation- and non-transportation-related activities, as evidenced by the 1971 Memorandum of Understanding (MOU).[2] In order to clarify jurisdictional issues and establish mutual goals, including "that as many facilities as possible are subject to single jurisdiction in the interest of regulatory efficiency," DOT's Office of Pipeline Safety and EPA entered into a Memorandum of Agreement (MOA) in 2000. This February 4, 2000, memorandum, which is often referred to as the Felder/Luftig Memo, provides "practical examples of complex facilities showing jurisdictional delineation to minimize potential confusion

[1] This letter follows on our June 8, 2012 letter in which we requested an additional 21 days (i.e., until July 3, 2012) to submit an appropriate response to the NOPV/PCO. Plains received confirmation on July 19, 2012 that PHMSA had granted this request.
[2] See, e.g., 1971 MOU between DOT and EPA on Transportation-Related Facilities.

Plains Marketing GP Inc., General Partner
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over regulatory responsibility."[3] Over the years, it has been the general understanding of Plains and other members of the industry, that the jurisdictional delineation illustrated in Attachment 3 of the MOA applied in circumstances such as here, where following a valve, each tank is connected to the main line (in this case, owned/operated by Plains) by a single line with no return from the storage tank to the pipeline.

The tanks at issue in the NOPV/PCO are used to receive product from the main pipeline for subsequent transfer/processing within the refineries. To the extent that any product was relieved through the valve, such product was purchased by the refinery for further use.[4] No product has been re-injected from the tanks into the PHMSA-regulated pipeline operated by Plains. Indeed, until issuance of the above-referenced NOPV/PCO, PHMSA inspectors who visited the facilities have recognized the tanks as being non-PHMSA jurisdictional tanks.[5] In short, it has been the understanding of Plains and the tank owners, as confirmed by prior PHMSA inspections that these specific tanks properly were storage tanks subject to EPA regulations applicable to non-transportation-related facilities.

Since receiving the PHMSA notice, we have been actively working with the tank owners to determine how best to address the compliance obligations noted in the NOPV/PCO. As part of this effort Plains requested records and documentation pertaining to the inspection history and testing of this equipment. The refineries are still in the process of compiling available inspection/testing records and providing them to Plains. We expect this process to be completed shortly and, at that point, we will be able to forward available records to PHMSA.

Plains has reviewed its program to monitor and mitigate internal corrosion on the Arklatex Pipeline system. This review included an evaluation to determine the need for additional coupon monitoring locations and a review of our pigging procedures, including sample collection, monitoring, and record keeping activities. The results of this review are provided under item 3, below.

With respect to the specific requirements of the PCO, we offer the following:

<u>1.</u> <u>Tank and Overfill Protection Systems Inspection and Testing</u> – As noted above, available records pertaining to inspections and testing of the tanks and overfill protection systems are still being compiled. We anticipate having those ready for submission to PHMSA in the near future. Because Plains does not own the tanks at issue, we have been exploring various options to address the first item of the PCO, including (1) obtain assurance that the refinery owners will perform any required inspections/testing; (2) secure site access agreement with refinery owners so Plains employees and/or contractors

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[3] http://phmsa.dot.gov/staticfiles/PHMSA/DownloadableFiles/2000_DOT_EPA.pdf

[4] In the past 5 years we have less than 1 barrel of product relieved from the pipelines into the refinery tanks.

[5] See, e.g., <u>Attachment 1</u> -- Standard Inspection Report (11/17/03 – 11/21/03) on the BOA-CAM Pipeline System. PP 17, 22 and 25 of the Report memorialize the OPS inspector's determination that no breakout tanks were present.

could perform necessary inspections/tests; or (3) acquire additional property such that the tanks could be located on property owned/controlled by Plains to eliminate access issues.

Option 3 was eliminated after further due diligence revealed there is inadequate space to locate the tanks on existing property owned/controlled by Plains and additional property is not readily available for acquisition in the requisite locations. Moreover, Option 3 likely would take significantly longer than 360 days to implement at cost well above $1,000,000 per tank.

Accordingly, based on our preliminary discussions with the refineries, we intend to move forward with one of the first two options. In particular, Plains intends to either secure confirmation that the refineries will conduct any required inspections/testing and make results available to Plains in a timely manner or negotiate access agreements that will provide Plains with the ability to conduct its own inspections and testing of the tanks and overfill protection systems.

There remain challenges with implementing either approach, including negotiating the terms of the agreements and ensuring that both PHMSA and EPA requirements are addressed. Thus, as discussed further below, Plains will need some additional time to complete this work. Once these agreements are in place, Plains will be in the position to ensure that any required inspections and testing of the equipment per 49 C.F.R. §§ 195.428 and 195.432 are being conducted.

2. N/A

3. Internal Corrosion Mitigation – Following the 2011 audit of the Arklatex Pipeline system, a review of the internal corrosion monitoring and mitigation program for this pipeline resulted in the following changes:

- A new coupon holder and coupon were installed at the Longwood Junction and the Longwood and Ark-La- Tex pipelines . This new coupon location will provide more representative internal corrosion rates. The previous location was left in place and will continue to be monitored. (See Attachment 2 for photos showing new coupon location piping)
- The coupon holder at the Calumet Refinery was modified to eliminate sediment buildup in the holder to water samples to be obtained. (See Attachment 3 for photos showing the modified piping)
- A new contractor with specialized expertise/experience regarding internal pipeline corrosion and processes for monitoring internal corrosion has been engaged to perform the chemical analyses. The protocol for water sample analysis has been augmented to include monitoring for both sulfate reducing and acid producing bacteria.
- We are updating our coupon monitoring record keeping practices to assure that duplicate records are maintained independent of those held by chemical contractor.

4. Timing – Plains desires additional time to put in place the measures referenced in items 1 and 3, above. More specifically, we request that the "90 days" provided in item 4 of the PCO be modified to "270 days" to allow adequate time to negotiate the requisite agreements with the refineries, review/update existing policies and programs, as warranted, and conduct any required inspections. Given the positive safety history of the tanks/systems at issue and the long history of apparent confusion with respect to jurisdictional issues regarding the tanks, we trust that PHMSA will find this request acceptable.

5. Documentation – Plains will seek to compile documentation of the safety improvement costs associated with satisfying the terms of the Compliance Order as described in item 5 of the PCO. Upon compilation, this information will be reported to PHMSA.

We would welcome the opportunity to meet with PHMSA prior to the issuance of a Final Order to discuss our plan to address these issues. We trust that PHMSA will find this response acceptable. Should you have any immediate questions or desire additional information, please do not hesitate to contact me.

Sincerely,

Troy E. Valenzuela

Troy E.Valenzuela
Vice-President, EH&S

Enclosures

cc: W. Fusilier
M. Kelly
J. Janak