



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

12300 W. Dakota Ave., Suite 110
Lakewood, CO 80228

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

VIA ELECTRONIC MAIL TO: MR. ERIC ORMOND

August 21, 2023

Mr. Eric Ormond
Senior VP, Engineering & Project Management
Tres Palacios Holdings LLC
811 Main Street, Suite 3400
Houston, TX, 77002

CPF 5-2023-054-NOPV

Dear Mr. Ormond:

From April 25, 2023 to April 27, 2023, 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 the Tres Palacios System in El Campo, Texas.

As a result of the inspection, it is alleged Tres Palacios Holding LLC (Tres Palacios) has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

1. **§192.917 How does an operator identify potential threats to pipeline integrity and use the threat identification in its integrity program?**
 - (a) ...
 - (b) ***Data gathering and integration.*** To identify and evaluate the potential threats to a covered pipeline segment, an operator must gather and integrate existing data and information on the entire pipeline that could be relevant to the covered segment. In performing this data gathering and integration, an operator must follow the requirements in ASME/ANSI B31.8S, section 4. At a minimum, an operator must gather and evaluate the set of data specified in Appendix A to ASME/ANSI B31.8S, and consider both on the covered segment and similar non-covered segments, past incident history, corrosion control records, continuing surveillance records, patrolling records, maintenance history, internal inspection records and all other conditions specific to each pipeline.
 - (c) ***Risk assessment.*** An operator must conduct a risk assessment that follows ASME/ANSI B31.8S, section 5, and considers the identified threats for each covered segment. An operator must use the risk assessment to prioritize the covered segments for the baseline and continual reassessments (§ 192.919, 192.921, 192.937), and to determine what additional preventive and mitigative measures are needed (§ 192.935) for the covered segment.
 - (d) ...
 - (e) ***Actions to address particular threats.*** If an operator identifies any of the following threats, the operator must take the following actions to address the threat.
 - (1) ...
 - (5) ***Corrosion.*** If an operator identifies corrosion on a covered pipeline segment that could adversely affect the integrity of the line (conditions specified in § 192.933), the operator must evaluate and remediate, as necessary, all pipeline segments (both covered and non-covered) with similar material coating and environmental characteristics. An operator must establish a schedule for evaluating and remediating, as necessary, the similar segments that is consistent with the operator's established operating and maintenance procedures under part 192 for testing and repair.

Tres Palacios failed to adequately gather, integrate, and evaluate potential threats to their pipeline. In addition, the operator failed to perform an adequate risk assessment or determine proper preventive and mitigative measures regarding corrosion identified on the pipeline. During inspection, PHMSA reviewed the operator's records and found that multiple anomalies were found during the 2018 in line inspection (ILI) run with substantial metal loss. While records indicate the pipeline was constructed in 2008, the 2018 ILI showed significant corrosion with the average depth on the 23 internal corrosion anomalies being 25%, and the 251 external corrosion anomalies being 22%. However, a review of the records demonstrated that no follow up analysis or monitoring has occurred since discovery of the corrosion to determine the cause of the corrosion, or if metal loss is continuing. ASME/ANSI B31.8S-2004, section 5, paragraph 5.11 states in part that "a recalculation of each segment's risk after integrity assessment and/or mitigation action is required to ensure that the segment's integrity can be maintained to the next inspection interval." Additionally, a schedule for continued evaluating and remediating

corrosion required by §192.917(e) had not been established according to Tres Palacios procedures.

Therefore, Tres Palacios failed to comply with §192.917(b), (c) and (e) by failing to gather, integrate, evaluate and analyze in a risk assessment that follows ASME/ANSI B31.8S, section 5, the identified threat of corrosion for each covered segment.

2. §192.161 Supports and Anchors.

(a) Each pipeline and its associated equipment must have enough anchors or supports to:

- (1) Prevent undue strain on connected equipment;**
- (2) Resist longitudinal forces caused by a bend or offset in the pipe; and**
- (3) Prevent or damp out excessive vibration.**

(b) Each exposed pipeline must have enough supports or anchors to protect the exposed pipe joints from the maximum end force caused by internal pressure and any additional forces caused by temperature expansion or contraction or by the weight of the pipe and its contents.

(c) Each support or anchor on an exposed pipeline must be made of durable, noncombustible material and must be designed and installed as follows:

(1) Free expansion and contraction of the pipeline between supports or anchors may not be restricted.

(2) Provision must be made for the service conditions involved.

(3) Movement of the pipeline may not cause disengagement of the support equipment.

(d) Each support on an exposed pipeline operated at a stress level of 50 percent or more of SMYS must comply with the following:

(1) A structural support may not be welded directly to the pipe.

(2) The support must be provided by a member that completely encircles the pipe.

Tres Palacios failed to properly support their pipeline and equipment, resulting in excess localized stress. Specifically, during the field inspection, PHMSA identified multiple improper supports along the pipeline including a wooden 4 x 4 pipe support, and concrete supports with no cushion.

Therefore, Tres Palacios failed to comply with §192.161 by failing to properly support their pipeline.

3. §192.605 Procedural manual for operations, maintenance, and emergencies.

(a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response...

Tres Palacios failed to follow its procedures for conducting the annual class location analysis. Specifically, during the inspection, PHMSA reviewed the operator's operations and maintenance

manual (O&M). Operator O&M section 2.6 lists eight bulleted requirements for conducting a class location analysis however, a review of Tres Palacios' records demonstrated that bullets 2, 3, 4, 5, and 8 were not included in the class location analysis for the years 2020 through 2023.

Therefore, Tres Palacios failed to comply with §192.605(a) by failing to follow their written procedures.

4. §192.710 Transmission lines: Assessments outside of high consequence areas.

(a) *Applicability:* This section applies to onshore steel transmission pipeline segments with a maximum allowable operating pressure of greater than or equal to 30% of the specified minimum yield strength and are located in:

(1) ...

(2) A moderate consequence area as defined in § 192.3, if the pipeline segment can accommodate inspection by means of an instrumented inline inspection tool (i.e., “smart pig”).

(3) ...

(b) *General -*

(1) *Initial assessment.* An operator must perform initial assessments in accordance with this section based on a risk-based prioritization schedule and complete initial assessment for all applicable pipeline segments no later than July 3, 2034, or as soon as practicable but not to exceed 10 years after the pipeline segment first meets the conditions of § 192.710(a) (e.g., due to a change in class location or the area becomes a moderate consequence area), whichever is later.

Tres Palacios failed to implement a Baseline Assessment Plan (BAP) upon identification of Moderate Consequence Areas (MCAs). The pipeline safety regulations require operators to establish a BAP for MCAs. Implemented in 2019 and effective as of July 1, 2020¹, this requirement includes operators who previously had no pipelines located in high consequence areas and thus no Integrity Management Program (IMP), and requires those operators to develop an IMP, including a BAP, within one year after identifying MCA locations. At the time of the inspection, a review of Tres Palacios' records indicated that it had identified two MCA locations on its system in 2021. However, the review of Tres Palacios' procedures showed Tres Palacios had not developed a BAP or IMP for those pipelines.

Therefore, Tres Palacios failed to comply with §192.710 by failing to implement an IMP and develop a BAP upon identification of MCAs on its system.

¹ See 84 FR 52250.

5. §192.479 Atmospheric corrosion control: General.

(a) Each operator must clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere, except pipelines under paragraph (c) of this section.

(b) Coating material must be suitable for the prevention of atmospheric corrosion.

(c) Except portions of pipelines in offshore splash zones or soil-to-air interfaces, the operator need not protect from atmospheric corrosion any pipeline for which the operator demonstrates by test, investigation, or experience appropriate to the environment of the pipeline that corrosion will -

(1) Only be a light surface oxide; or

(2) Not affect the safe operation of the pipeline before the next scheduled inspection.

Tres Palacios Holdings LLC failed to adequately coat and protect their pipeline against atmospheric corrosion. During the Field Inspection, PHMSA identified numerous areas of atmospheric corrosion including excessive paint peeling and coating disbondment causing under-film migration of moisture and external corrosion and pitting.

Therefore, Tres Palacios failed to comply with §192.479 by failing protect their pipeline against atmospheric corrosion.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$257,664 per violation per day the violation persists, up to a maximum of \$2,576,627 for a related series of violations. For violation occurring on or after March 21, 2022 and before January 6, 2023, the maximum penalty may not exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,412 for a related series of violations. For violation occurring on or after May 3, 2021 and before March 21, 2022, the maximum penalty may not exceed \$225,134 per violation per day the violation persists, up to a maximum of \$2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021 and before May 3, 2021, the maximum penalty may not exceed \$222,504 per violation per day the violation persists, up to a maximum of \$2,225,034 for a related series of violations. For violation occurring on or after July 31, 2019 and before January 11, 2021, the maximum penalty may not exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. 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.

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.

Proposed Compliance Order

With respect to Item 1 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Tres Palacios Holdings LLC. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Items

With respect to Items 2 through 5, 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. We advise you to promptly correct these Items. Failure to do so may result in additional enforcement action.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement Proceedings*. Please refer to this document and note the response options. All material you submit in response to this enforcement action may be 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 your receipt of this Notice, you have 30 days to respond as described in the enclosed *Response Options*. 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. The Region Director may extend the period for responding upon a written request timely submitted demonstrating good cause for an extension.

In your correspondence on this matter, please refer to **CPF 5-2023-054-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Dustin Hubbard
Director, Western Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

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

cc: PHP-60 Compliance Registry
PHP-500 M. Buss (23-264167)

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Tres Palacios Holdings LLC a Compliance Order incorporating the following remedial requirements to ensure the compliance of Tres Palacios Holdings LLC with the pipeline safety regulations:

- A. In regard to Item 1 of the Notice pertaining to failure to adequately gather, integrate, and evaluate potential threats to their pipeline, Tres Palacios Holdings LLC must assess the potential corrosion growth rate via ILI and perform a root cause analysis within **180** days of receipt of the Final Order. Furthermore, the Operator should monitor corrosion rates via appropriate methods going forward.
- B. It is requested (not mandated) Tres Palacios Holdings LLC maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Dustin Hubbard, Director, Western 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.