

Katherine Douglas

Public Comment

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To: sbcob
Subject: Letter for Board
Attachments: GCC to BOS_Plains Ownership Change_9-15-23_DRAFT.pdf

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LAW OFFICE OF MARC CHYTILO, APC

ENVIRONMENTAL LAW

September 15, 2023

Santa Barbara County Board of Supervisors
105 E. Anapamu Street
Santa Barbara, CA 93101

By email

RE: Change of Ownership, Guarantor, and Operator for the Las Flores Pipeline System

Honorable Supervisors:

This office represents the Gaviota Coast Conservancy (GCC), a California public benefit organization dedicated to permanently protecting the rural character and environmental integrity of the Gaviota Coast for present and future generations. Along with rural character and environmental integrity, public access and recreational opportunities is the “third pillar” that together fulfills GCC’s mission.

The Las Flores Pipeline is permitted under the Santa Barbara County Final Development Plan (FDP) approved in 1986 (and revised in 1988 and 2003). To approve the change in owner and operator under this permit, Chapter 25B of the County Code requires that the County find: “As of the date that the application is deemed complete, the current owner[and operator] is in compliance with all requirements of the permit, including any requirement of a county-required safety audit, any notice of violation, and any county ordinance, or the current and proposed owner(s) have entered into a written agreement with the Director that specifies an enforceable schedule to come into compliance with such requirements.”

The Planning Commission approved the proposed ownership change with an affirmative finding that Plains is in compliance with all requirements of the FDP. This finding is clearly unsupported by substantial evidence (discussed below) due to the numerous permit violations discovered following the Refugio Oil Spill that have yet to be remedied. This finding further compromises the County’s ability to enforce the FDP to ensure the Los Flores pipeline system is not restarted without adequate safety measures.

The Board can and should direct, as Chapter 25B provides (see above), that the proposed owner (PPC) enter into a written agreement with Director Plowman that specifies an enforceable schedule to come into compliance with the requirements of the FDP. With a finding that this agreement has been entered into, the Board could still approve the transfer, provided the other findings of approval are supported. The written agreement approach offers the distinct advantage of enabling the County to oversee PPC’s efforts to inspect and repair the pipeline, and ensure additional safety measures are in place to protect against future ruptures.

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1. Plains Is Unambiguously Out of Compliance with the FDP Project Description

FDP Conditions for the Los Flores Pipeline System incorporate “the procedures, operating techniques, design, equipment and other descriptions” articulated in the 1985 pipeline system EIR as required elements of the FDP permit. Specifically, Condition A-7, Substantial Conformity provides:

The procedures, operating techniques, design, equipment and other descriptions (hereinafter procedures) described in 83-DP-25 cz, 83-CP-97 cz, and in subsequent clarifications and additions to that application and the Final Development Plan are incorporated herein as permit conditions and shall be required elements of the project. Since these procedures were part of the project description which received environmental analysis, a failure to include such procedures in the actual project could result in significant unanticipated environmental impacts. Therefore, modifications of these procedures will not be permitted without a determination of substantial conformity or a new or modified permit. The use of the property and the size, shape, arrangement and location of buildings, structures, walkways, parking areas and landscaped areas shall be in substantial conformity with the approved Final Development Plan.

(FDP Conditions, Board Letter, Attachment B, p. 2 (emphasis added)).

The 1985 EIR’s description of the Celeron/All American pipeline articulates the following procedures regarding protection from external corrosion:

Corrosion Design Criteria and Corrosion Control Procedures
Protection of a pipeline from corrosion is of critical importance to the environment as well as the pipeline operator. Pitting of the pipeline can occur due to chemical reaction between the soil and the carbon steel pipe if it is not adequately protected. This pitting would eventually reduce the strength of the pipe sufficiently to cause a break and allow an oil leak. Therefore, Getty and Celeron/All American intend to wrap the pipelines in accordance with applicable regulations. Additionally, cathodic protection would be installed as required within 12 months of the pipeline installation dependent upon soil and chemical conditions. Corrosion control test stations would be installed with which to test the integrity of the corrosion protection. This is all in accordance with 49CFR-195.

(DEIR p. 4-106).

The DEIR describes the insulation and protective coating, and requires that “[a]ny irregularities in the coating that would permit moisture to reach the pipe would be located by use of a “holiday” detector¹” (DEIR p. 2-23.) Additionally the DEIR provides “[t]he entire pipeline

¹ Holiday testing is a non-destructive test method applied on protective coatings to detect unacceptable discontinuities such as pinholes and voids. The test involves checking an electric circuit to see if current flows to complete the circuit. This testing is used to find coating film

would be protected from corrosion with cathodic protection systems consisting of groundbeds and rectifiers.” (DEIR p. 2-5 (emphasis added).) The Project Description further provides “[m]aintenance activities associated with the pipeline and the ROW would include the following: ... Inspection and maintenance of cathodic protection systems.” (DEIR p. 2.24.) The DEIR also specifies that the pipeline would have a 0.344 to 0.562-inch wall thicknesses. (DEIR, p. 2-5.) Finally, the DEIR requires that “[o]peration of the Celeron/All American pipelines would be in compliance with all applicable DOT, state, and local regulations and standards.” (DEIR, p. 2-30.)

The rupture in Line 901 that caused the devastating Refugio Oil Spill resulted from progressive external corrosion of the pipeline, caused by ineffective protection against external corrosion and failure by Plains to detect and mitigate the corrosion. (PHMSA Report p. 14.) The condition of the pipeline’s coating and insulation system fostered an environment that led to the external corrosion, and the pipeline’s cathodic protection system was not effective in preventing corrosion from occurring beneath the pipeline’s coating/insulation system. (Id., p. 3.) Plains failed to identify corrosion under insulation (CUI) as risk-driving threat in their federally-mandated integrity management program (IMP) and did not fully implement their IMP as required. (Id., pp. 14-15.)

The PHMSA Report explains that **“Corrosion under insulation (CUI) cannot be prevented on insulated lines where the coating system has been compromised.”** (Id., p. 14 (emphasis added).) Following the Refugio Oil Spill, PHMSA issued an Advisory Bulletin that reminds pipeline owners and operators that *“Corrosion under insulation (CUI) is recognized as an integrity threat difficult to address through conventional cathodic protection systems and can lead to accelerated wall-loss corrosion and stress corrosion cracking of the pipe steel... Generally, the application of external CP to thermally insulated metallic surfaces has been ineffective.”* (see PHMSA Advisory Bulletin, Federal Register, 6/21/16, available at <https://www.federalregister.gov/documents/2016/06/21/2016-14651/pipeline-safety-ineffective-protection-detection-and-mitigation-of-corrosion-resulting-from>. Additionally, due to CUI discovered in various locations along the Los Flores Pipeline System (and presence of corrosive soils, see PHMSA Report, Appendix M (Mechanical and Metallurgical Testing), p. 16) PPC would have to obtain a State Waiver through the Office of the State Fire Marshall (OSFM) for the limited effectiveness of cathodic protection. (Consent Decree, PDF p. 81; see Plains Valve Appeal Planning Commission Staff Report (2/2/23) p. 14.)

PHMSA documented 80 anomalies with 40-59% metal loss, resulting in portions of the pipeline that thinned to below the required minimum thickness of 0.344 (PHMSA Report, p. 13 (showing maximum of 0.318 inches at the failure site). Per PHMSA’s Investigation Findings

discontinuities that are not readily visible. The testing is usually performed on tank interiors, chemical storage vessels and buried structures because of the importance of maintaining adequate coating protection in aggressive service environments.

<https://www.elcometerusa.com/Coating-Inspection/Porosity-Holiday-Detection/>

and Conclusions following the Refugio Oil Spill “*Line 901 pipeline ruptured at approximately 56% of the MOP [maximum operating pressure].* Although the operational events that occurred on the morning of the release were abnormal, *this should not have caused the release if the pipeline’s integrity had been maintained to federal standards.*” (PHMSA Report, p. 14.) Plains did not maintain the pipeline as required by federal standards. That alone is a violation of FDP Permit Condition A-7 that precludes a finding that Plains is in compliance with their FDP.

The proposed finding that “Plains is in compliance with all requirements of the FDP permit ... including Conditions A-7 and A-20 regarding the project description” (Board Letter Attachment A, p. 3) is inappropriately focused on cathodic protection only. The Board Letter explains states:

The design of the cathodic protection system and the equipment used is in accordance with the elements outlined in the DEIR/EIS. The cathodic protection system was installed as part of the original construction of the pipelines and implements Impressed Current Cathodic Protection, consisting of rectifiers, groundbed anodes, and critical bonds. Various test stations are located along the pipeline system to take electrical measurements, which meet and exceed the described system placement of every 10 miles. The cathodic protection system is inspected at least every 6-months in addition to annual inspections, which meet the described inspection and maintenance schedules.

(Board Letter, pp. 3-5.)

This proposed finding ignores the critical fact that the liner system has been compromised and the Los Flores Pipeline System *is not protected from external corrosion, and that a cathodic protection system – no matter how it is installed and maintained – cannot effectively protect buried insulated pipelines from external corrosion.* (PHMSA Report, p. 14.²) The EIR is clear that “[p]rotection of a pipeline from corrosion is of critical importance to the environment” (DEIR p. 4-106). Finding that Plains is in compliance with the project description when the pipeline is not protected from external corrosion is not supported by substantial evidence in the record.

2. Conclusion

The proposed findings for approval of the owner/operator change are not supported by substantial evidence as required. **We request that the Board direct, as Chapter 25B provides (see above), that the proposed owner (PPC) enter into a written agreement with Director Plowman that specifies an enforceable schedule to come into compliance with the requirements of the FDP.**

² <https://www.federalregister.gov/documents/2016/06/21/2016-14651/pipeline-safety-ineffective-protection-detection-and-mitigation-of-corrosion-resulting-from>

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Respectfully Submitted,

LAW OFFICE OF MARC CHYTILO, APC

A handwritten signature in cursive script, appearing to read 'Ana Citrin', written over a horizontal line.

Ana Citrin
For Gaviota Coast Conservancy