



Administrative Monetary Penalty / Sanction administrative pécuniaire
NOTICE OF VIOLATION / AVIS D'INFRACTION

REFERENCE NUMBER / N° DE RÉFÉRENCE: AMP-001-2019

Information for Pipeline Company / Third Party / Individual:
Information pour la société pipelinière / une tierce partie / un particulier :

Name / Nom :	Plains Midstream Canada ULC (PMC)	TOTAL PENALTY AMOUNT / MONTANT TOTAL DES PÉNALITÉS:
Contact / Contactez:	Jason Balasch	
Title / Titre:	President	\$88,000
Address / Adresse:	Suite 1400, 607 Eighth Avenue S.W.	Date of Notice / Date de l'Avis:
		30 January, 2019
		Regulatory Instrument # / N° de l'instrument réglementaire:
		AO-006-GC-19
City / Ville:	Calgary	
Province / State / État	Alberta, T2P 0A7	
Telephone / Téléphone:	██████████	
Fax / Télécopieur:	██████████	
E-mail / Courriel:	██	

On / Le 2017-05-05

Plains Midstream Canada ULC

was observed to be in violation of an NEB regulatory requirement. This violation is subject to an administrative monetary penalty, as outlined below.

a commis une infraction aux exigences réglementaires de l'ONÉ, sujet à la sanction administrative pécuniaire ci-dessous.

1. VIOLATION DETAILS / RENSEIGNEMENTS SUR L'INFRACTION

Date of Violation / Date d'infraction :		Has compliance been achieved? / La situation est-elle rétablie? <input checked="" type="radio"/> Yes / Oui <input type="radio"/> No / Non If no, a subsequent NoV may be issued. Si non, un autre avis d'infraction pourrait être envoyé.
(from / du): May 5, 2017	(to / au): May 5, 2017	
Total Number of Days / Nombre total de jours:	1	

Location of Violation / Lieu de l'infraction:

e.g. Facility/plant/head office or nearest geographical point or lat/long / ie: usine/siege central/lieu géographique PTC Mainline at SW-28-16-20-W2M ("Section 28")

Short Form Description of Violation / Description abrégée de l'infraction (Refer to Schedule 1 of the AMP Regulations) / (Voir l'annexe 1 du Règlement)	Provision and Short-form Description / Disposition et Sommaire
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NEB Pipeline Damage Prevention Regulations — Obligations of Pipeline Companies

6(1)(b) Failure to mark location of a pipe as prescribed (Type B) / Omission d'indiquer l'emplacement des conduites tel qu

Contravention of an Order or Decision made under the Act (ss. 2(2) of the AMP Regulations) / Dérogation à une ordonnance ou à une décision rendue sous le régime de la Loi (paragraphe 2(2) du Règlement sur les sanctions administratives pécuniaires)

Failure to comply with a term or condition of any certificate, licence, permit, leave or exemption granted under the Act (ss. 2(3) of the AMP Regulations) / Manquement à une condition d'un certificat, d'une licence, d'un permis, d'une autorisation ou d'une exemption accordé sous le régime de la Loi (paragraphe 2(3) du Règlement sur les sanctions administratives pécuniaires)

2. RELEVANT FACTS / FAITS SAILLANTS

Briefly describe reasonable grounds to believe a violation has occurred / Décrire brièvement les motifs raisonnables de croire qu'une infraction a été commise

The following is a summary. For complete details, please see attached Investigator's Report dated December 12, 2018.

Plains Midstream Canada ULC (PMC) owns and operates the PTC Mainline pursuant to Certificate of Public Convenience and Necessity GC-19 and Order AO-006-GC-19 (Tab A). The PTC Mainline is a 168 mm OD by 4.8 mm WT pipeline that originates at PMC's Empress 6 facility in Alberta and terminates at their Fort Whyte facility in Manitoba. The PTC Mainline was put into service in 1964.

On April 7, 2017, April 13, 2017, and April 25, 2017, Forbes Brothers Ltd. (Forbes), a contractor working for SaskPower, placed identically worded requests to Sask 1ST Call to have the “entire SaskPower [right of way] located for the first 3 transmission line structures east and west of the road... including any road crossings... crossing X-9.” The Sask 1st Call system maintains records of underground utilities and assigns tickets to utility companies based on its knowledge of the location of utilities. Based on this information, Sask 1st Call assigned these tickets to the companies who had underground utilities in this area, including PMC. The requested area covered Sections 28 (SW-28-16-20-W2M) and 29 (SE-29-16-20-W2) near Pinkie Road in the City of Regina.

Section 6 of the National Energy Board Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies, SOR/2016-133 (DPR – O) sets out the obligations of pipeline companies following requests to locate:

6 (1) Subject to subsection (2), if a pipeline company receives a request to locate its pipes from a person that intends to construct a facility across, on, along or under a pipeline or engage in an activity that would cause a ground disturbance within the prescribed area, the pipeline company must, within three working days after the day on which the request is made, or any longer period agreed to by the pipeline company and that person,

(a) inform the person, in writing, of safety practices to be followed while working in the vicinity of its pipes and, in case of a ground disturbance, within the prescribed area;

(b) mark the location of its pipes in the vicinity of the proposed facility or the prescribed area at maximum intervals of 10 m along each pipe using markings that are clearly visible and distinct from any other markings that may be in the vicinity of the proposed facility or the prescribed area; and

(c) provide information to the person that clearly explains the significance of the markings.

(2) The markings must be consistent with the standards for locating a pipeline that are set out in the pipeline company's damage prevention program.

On or around April 25, 2017, April 26, 2017, and May 4, 2017, PMC failed to mark the location of its pipeline in the vicinity of the proposed facility, contrary to sub-section 6(1)(b) of the DPR-O, by providing Forbes with final markings that were incorrect and that lead Forbes to believe that it was safe and clear to complete its proposed excavation work. Specifically, PMC's locator ██████████ cleared PMC's request in his email to ██████████ of Forbes on April 25, 2017, entered notes into Utilisphere (PMC's tracking system for one-call tickets) stating that the work area was staked and marked, and in person verbally to Forbes staff on May 4, 2017.

On May 5, 2017, relying on PMC's incorrect markings, Forbes struck the PTC Mainline in section 28, resulting in a loss of primary containment (i.e. punctured the line) and release of product (propane). This incident was reported by PMC on May 6, 2017 via the NEB's Event Reporting System under file INC2017-060.

Upon review of all the evidence provided in the investigation of this incident, I agree with the conclusions drawn by the NEB Investigator and share the view that the version of events provided by Forbes Brothers Ltd. is more likely. On that basis I have reasonable grounds to believe that the violation of section 6 of the DPR-O has occurred.

3. PENALTY CALCULATION / CALCUL DES SANCTIONS

(a) BASELINE PENALTY (Gravity Value = 0) / PÉNALITÉ DE BASE (côte de gravité = 0)

Category / Catégorie	(Type A)	Individual / Personne physique	Any Other Person / Autre Personne
		<input type="checkbox"/> \$1,365	<input type="checkbox"/> \$5,025
	(Type B)	<input type="checkbox"/> \$10,000	<input checked="" type="checkbox"/> \$40,000

[Refer to [AMP Regulations](#), Subsection 4(1) / Voir le [Règlement](#), paragraphe 4(1)]

(b) APPLICABLE GRAVITY VALUE / COTE DE GRAVITE GLOBALE APPLICABLES

[Refer to [AMP Regulations](#), Subsection 4(2) / Voir le [Règlement](#), paragraphe 4(2)]

Mitigating / Atténuer			Aggravating / Aggravantes		
-2	-1	0	+1	+2	+3

<input checked="" type="checkbox"/> Other violations in previous seven (7) years / Autres infractions au cours des sept (7) années précédentes	--	--	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	--
PMC received a Notice of Violation in February 2015, AMP-003-2015, for failure to conduct inspections and audits as prescribed by ss. 53(1) of the Onshore Pipeline Regulations (OPR)						
<input checked="" type="checkbox"/> Any competitive or economic benefit from violation / Avantages concurrentiels ou économiques découlant de l'infraction	--	--	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
N/A						
<input checked="" type="checkbox"/> Reasonable efforts to mitigate / reverse violation's effect / Efforts raisonnables déployés pour atténuer ou annuler les effets de l'infraction	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
N/A						
<input checked="" type="checkbox"/> Negligence on part of person who committed violation / Négligence de la part de la personne ayant commis l'infraction	--	--	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	--
-The PMC locator relied on assumptions for the location of the pipeline without verifying the information with PMC maps or the map shown to him by Forbes. -The PMC locator did not complete the locate using mechanical means by tying onto the pipelines from both ends of the section. As per PMC's report, this practice is recommended by PMC's line locator training.						
<input checked="" type="checkbox"/> Reasonable assistance to Board with respect to violation / Collaboration raisonnable avec l'Office en ce qui a trait à l'infraction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	--
-When the NEB Investigator met with PMC staff on May 15, 2017 in Regina SK, PMC staff were not cooperating with the NEB investigation by leaving out pertinent facts and providing false information. This is despite the fact that the NEB had provided advanced warning to PMC that NEB staff would be attending their offices to conduct compliance verification activities in order to determine the cause of the May 5, 2017 line strike. 1) PMC advised the investigator that the Forbes employees involved in the incident were from Manitoba and had gone home, and therefore would be unavailable for interviews during the investigator's time in Regina. In fact the Forbes staff were all from Saskatchewan and reported to work as per usual the Monday following the Friday line strike. 2) PMC management did not offer the name, role, or level of involvement of their locator, [REDACTED]. Upon investigating this incident it is clear that [REDACTED] played a vital role in the factors that led to this incident. 3) PMC management advised the investigator that Forbes had not made any locate requests for Section 28, which was not the case. Forbes had made three requests to locate Section 28, and PMC's Utilisphere system confirmed this.						
<input checked="" type="checkbox"/> Promptly reported violation to Board / Infraction signalée sans délai à l'Office	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
The incident was required to be reported under the OPR.						
<input checked="" type="checkbox"/> Steps taken to prevent reoccurrence of violation / Mesures prises pour prévenir les récidives	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
PMC investigated the incident and issued a report on August 31, 2017 containing recommendations to improve their practices vis-à-vis locating pipelines.						
<input checked="" type="checkbox"/> Violation was primarily reporting / record-keeping failure / Infraction reliée principalement à la production de rapports ou à la tenue des dossiers	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	--	--	--
N/A						
<input checked="" type="checkbox"/> Any aggravating factors in relation to risk of harm to people or environment / Facteurs aggravants pouvant causer du tort au public ou à l'environnement	--	--	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

<p>-Given that the excavation occurred directly in the path of an operational pipeline, there was a high probability of harm to people or the environment and high severity of harm.</p> <p>-The probability of harm was high due to the negligent locating practices undertaken by the PMC line locator. He relied upon incorrect assumptions, did not take any steps to verify available drawings that contradicted his assumptions, and, according to PMC's report, did not locate the pipeline using mechanical means as recommended by the line locator training previously undertaken by the locator.</p> <p>-The severity of harm was high as the line strike led to the release of propane immediately adjacent to a motorized running vehicle (auger) and four persons were in the immediate vicinity of the incident. They had to run to safety. This event could have led to fatalities and/or serious injuries.</p>		
(c) TOTAL GRAVITY VALUE / COTE DE GRAVITÉ GLOBALE		+4
(d) DAILY PENALTY / SANCTIONS QUOTIDIENNES (The baseline penalty, adjusted for the final gravity level) (Pénalité de base d'après la côte de gravité)	\$	88,000.00
(e) NUMBER OF DAYS OF VIOLATION / DURÉE DE L'INFRACTION (If more than one day, then the justification must be provided.) (Si plus d'une journée, prière de justifier.)		1
<p>Notes to explain decision to apply multiple daily penalties, or "Not Applicable" / Notes pour expliquer la décision d'appliquer des pénalités multiples quotidiennes, ou «sans objet»</p> <p>Not applicable</p>		
4. TOTAL PENALTY AMOUNT / MONTANT TOTAL DE LA PÉNALITÉ	\$	88,000.00
<p>Note: The total penalty amount shown is based on the period described in Step 1 above. If compliance has not been achieved, a subsequent Notice of Violation may be issued. Le montant total de la pénalité est calculé d'après la période décrite à l'étape 1 ci-dessus. Si la situation n'a pas été rétablie, un autre avis d'infraction pourrait être envoyé.</p>		
5. DUE DATE (30 days from receipt of Notice of Violation) DATE LIMITE (30 jours à compter de la réception de l'Avis d'infraction)		04 March, 2019

Notes

You have the right to make a request for a review of the amount of the penalty or the facts of the violation, or both, within 30 days after the Notice of Violation was received.

If you do not pay the penalty nor request a review within the prescribed period, you are considered to have committed the violation and you are liable for the penalty set out in the Notice of Violation. The penalty is due on the date indicated above.

The unpaid penalty amount is a debt due to the Crown and may be recovered by collection procedures stipulated in the [Financial Administration Act](#).

The information regarding the violation may be posted on the NEB website:

- a) 30 days from the date this Notice of Violation was received or;
- b) upon issuing a decision following a Request for Review.

To Make Payment:

You may remit your fee payment by Electronic Funds Transfer (EFT) or by cheque payable to the order of Receiver General for Canada.

EFT payments can be arranged by contacting the Director of Financial Services, Monday to Friday, from 09:00 to 16:00 Mountain Time:

Telephone: 403-919-4743 / 800-899-1265
Fax: 403-292-5503 / 877-288-8803

Cheques should be made out to the "Receiver General for Canada" and mailed to:

National Energy Board
Attention: Finance
Centre 10, 517 – 10th Avenue SW
Calgary, Alberta
T2R 0A8

Your completed *Payment* form should be enclosed with your payment.

Notes

Vous disposez de 30 jours après la signification de l'Avis d'infraction pour demander une révision du montant de la pénalité, ou les faits rapportés, ou les deux.

Si les sanctions ne sont pas acquittées et qu'aucune révision n'est demandée, vous êtes considérés comme coupable de l'infraction et vous devez payer les sanctions précisées dans l'Avis d'infraction. Les sanctions sont payables à la date indiquée ci-dessus.

Un défaut de paiement constitue une créance envers l'Etat et peut être recouvré en utilisant tous les recours prévus dans la [Loi sur la gestion des finances publiques](#).

L'information concernant l'infraction pourrait également être affichée sur le site Web de l'ONÉ:

- a) 30 jours après la date de réception de l'Avis;
- b) dès qu'une décision a été rendue à la suite d'une Demande de révision.

Paiement:

Vous pouvez payer le montant dû par transfert électronique de fonds (TEF) ou par chèque établi à l'ordre du Receveur général du Canada.

Pour se prévaloir du service de transfert électronique, communiquer par téléphone avec le Directeur, Service des finances, du lundi au vendredi, de 9 h à 16 h, heure des Rocheuses :

Telephone: 403-919-4743/ 800-899-1265
Telec. : 403-292-5503/877-288-8803

Les chèques doivent être établis à l'ordre du Receveur général du Canada et postés à l'adresse suivante:

Office national de l'énergie
Service des finances
Centre 10, 517 – 10e Avenue S.-O.
Calgary (Alberta)
T2R 0A8

Le formulaire de *paiement* dûment rempli doit accompagner le paiement.

To Request a Review

Pursuant to the NEB Act, Section 144, you may file a request for a review of this Notice of Violation by the Board.

The date of filing is the date on which the document is received, as indicated by the date on an e-mail submission or the stamped on the document by a NEB employee.

If you elect to make a request for a review, complete and submit the attached *Request for Review* form to:

Administrative Monetary Penalty - Reviews
National Energy Board
Centre 10, 517 – 10th Avenue SW
Calgary, Alberta
T2R 0A8

For more information on reviews, please see the Administrative Monetary Penalties Process Guide available on the NEB's [website](#).

If you have any questions regarding this matter, please contact the undersigned.

Sincerely,



Robert Steedman

Designated Officer
Administrative Monetary Penalties

Fonctionnaire désigné
Sanctions administratives pécuniaires

**Demande de révision**

En vertu de l'article 144 de la Loi sur l'ONE, vous pouvez présenter à l'Office une *Demande de révision* de cet Avis l'infraction.

La date du dépôt correspond à la date de réception du document, qui apparaît sur l'envoi électronique ou le timbre apposé sur le document par un employé de l'ONE.

Si vous voulez demander une révision, veuillez remplir et soumettre le formulaire de Demande de révision à l'adresse suivante :

Sanction administrative pécuniaire - Révision
Office national de l'énergie
Centre 10, 517 – 10e Avenue S.-O.
Calgary (Alberta)
T2R 0A8

Pour de plus amples informations sur le processus de révision, prière de consulter le Guide sur le processus relatif aux sanctions administratives pécuniaires sur le [site Web](#).

Pour toute question à ce sujet, veuillez communiquer avec la personne soussignée.

Sincères salutations,