



OF-Surv-OpAud-P102- 2009-2010 01
14 August 2014

Mr. W. David Duckett
President
Plains Midstream Canada ULC
Suite 1400
607 8th Avenue SW
Calgary, AB T2P 0A7
Facsimile: 403-233-0399

Dear Mr. Duckett,

**Plains Midstream Canada ULC (Plains) – 2010 Management and Protection
Program Audit – Corrective Action Plan (CAP) Implementation Assessment**

Pipeline safety is of paramount importance to the National Energy Board (Board or NEB). The Board holds companies accountable for public safety and protection of the environment, and takes appropriate action when they fail to live up to their requirements. The Board will take all available actions to protect Canadians and the environment, and requires pipeline companies to anticipate, prevent, manage and mitigate potentially dangerous conditions associated with their pipelines. The NEB will make any enforcement actions public.

In 2010 the Board completed an audit of Plains' compliance to, then in force, *Onshore Pipeline Regulations, 1999* (OPR -99) and issued its final audit report. This was the Board's second OPR-99 audit; the first being undertaken in 2002. In its 2010 audit report the Board identified a number of Non-Compliant findings for which Plains was required to develop and implement a corrective action plan (CAP) to address those findings. Plains was also required to submit regular reports describing its progress in implementing its CAP through to completion. Subsequently, Plains has submitted the reports and has reported that it has implemented its CAP.

In order to assess Plains' CAP implementation the Board conducted two implementation assessment meetings (IA Meeting) in January and March 2014, for the Safety Management (SM) and Environmental Protection (EP) Programs. The IA Meetings determined that the majority of the Board's Non-Compliant findings had not been addressed. The Board therefore finds that Plains has not implemented its CAP and continues to be in non-compliance with sections 47, 53 and 55 of the currently in force *National Energy Board Onshore Pipeline Regulations* (OPR).

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The Board notes that during the 2010 Audit of the EP Program, the Board determined that Plains' internal audit program and management review processes were Non-Compliant with sections 53 and 55 and that these findings were similar to the Boards' 2002 EP Program audit. The Board is concerned with Plains' commitment and approach to compliance given the on-going nature of the non-compliance, as the requirements in sections 47, 53 and 55 of the OPR have been in place since 1999 with minimal revision.

In light of this, the Board has authorized, pursuant to section 15 of the NEB Act, one of its members (Bob Vergette or Authorized Member) to assess Plains' approach to coming in compliance and to report back to the Board. The Authorized Member will take and consider all necessary evidence and information for the purpose of reporting to the Board on the appropriateness of any further regulatory processes or enforcement actions the Board should take with respect to the Plains' operation. The Authorized Member has all of the powers of the Board for the purpose of acquiring the necessary information for the report. Any decisions on this matter will be made by the Board.

The Authorized Member has the authority to recommend to the Board that further enforcement actions be taken against Plains if he determines they are required to achieve compliance with the OPR. Potential NEB enforcement actions which may be recommended include, but are not limited to:

- revoking certain authorizations;
- imposing safety orders; and
- initiating show-cause proceedings in which Plains would be required to demonstrate why the Board should not shut its pipeline system down until Plains is fully compliant with the OPR.

To facilitate Bob Vergette's efforts in this regard, the Board hereby directs you to attend a meeting to be held in Calgary, Alberta on **4 September 2014**, beginning at 10:00 am. The purpose of the meeting is for you to account for Plains' failure to implement the CAP and how you, as the Accountable Officer, will ensure compliance with the OPR in the future. You may determine which additional members of Plains' technical or operating staff will also attend. Bob Vergette will be accompanied at the meeting by members of Board staff.

During the meeting Bob Vergette will assess Plains commitment to safety, environmental protection and management on Plains' pipeline system. Following the meeting the Authorized Member will provide a report to the Board regarding any steps he considers necessary and appropriate in the circumstances to achieve compliance with the OPR.

To assist in the Authorized Member's assessment, Plains is directed to submit to the Board prior to **27 August 2014**, the following:

- Annual Report, as required by section 6.6 of the OPR; and
- Annual Evaluation of Need, as required by paragraph 6.4(c) of the OPR.

Yours truly,

Original signed by

Sheri Young
Secretary of the Board

c.c. Ms. Cailee Ellis, Manager, Regulatory Compliance - Facsimile 403-298-2177