



October 5, 2018

Allan Beshore  
901 Locust Street, Suite 462  
Kansas City, MO 64106

RE: **CPF 3-2018-5002**, Notice of Probable Violation and Proposed Civil Penalty

Dear Mr. Beshore:

The Pipeline and Hazardous Materials Safety Administration (**PHMSA**), Office of Pipeline Safety (**OPS**) inspected DGC's carbon dioxide pipeline records and assets from January 30 to May 12, 2017. DGC received a Notice of Probable Violation and Proposed Civil Penalty, dated May 29, 2018. DGC does not contest either of the violations alleged in the Notice and submits the following explanations and information to eliminate or mitigate the proposed civil penalties.

#### **Alleged Violation 1**

During the inspection, the auditor found that DGC failed to protect its pipeline which was exposed to stray currents at two locations and minimize the detrimental effects of such currents. (49 CFR § 195.577). DGC elected to conduct digs at these locations after the inspection in May, 2018. The digs showed the AC current at the two locations to be within an acceptable range. The digs prior to the inspection and the digs after the inspections showed AC current in an acceptable range and therefore DGC did not foresee the elevated readings during the inspection.

DGC respectfully requests elimination or mitigation of the \$19,300 penalty for this alleged violation. Per the assessment considerations of 49 CFR § 190.225, the alleged violation was minor in nature as there was no adverse effect on local populations or the environment. DGC has no prior offenses under 49 CFR § 195.577 and DGC has put considerable time and resources in to achieving compliance both during and after the inspection. DGC has contracted with a third-party consultant to model AC interference on the pipeline. In the event of any abnormalities, DGC will take mitigative action as necessary. The modeling is expected to be complete by June 30, 2019 and any mitigative work would be complete before the annual cathodic protection survey in 2020. For these reasons and others as the Associate Administrator deems appropriate, elimination or mitigation of the penalty may be appropriate.



**Alleged Violation 2**

During the inspection of DGC's records, the PHMSA auditor determined that DGC did not perform a sufficient written effectiveness evaluation in 2016 for the recipient audience as required by the public awareness plan provisions, a violation of 49 CFR § 195.440(c).

DGC respectfully requests elimination or mitigation of the \$19,300 penalty for this alleged violation. Per the assessment considerations of 49 CFR § 190.225, there was no adverse impact on the environment or local populations as a result of the alleged violation. DGC has no prior offenses under 49 CFR § 195.440(c). DGC submits documentation of the Public Awareness Assessment of Program Implementation for the 2016 Effectiveness survey cards, attached hereto. The review and submittal of the 2016 information, albeit late, demonstrates DGC's good faith in attempting to achieve compliance. For these reasons and others as the Associate Administrator deems appropriate, mitigation or elimination of the penalty is appropriate.

Please contact Dale Johnson at 701-873-2100 or [dalej@bepc.com](mailto:dalej@bepc.com) with any questions.

Best Regards,



David J. Sauer  
Senior Vice President & Chief Operating Officer

am/sw

cc: Dale Johnson  
Jeff Graney  
Trinity Turnbow  
Claude O'Berry  
Christopher Breiner  
Charles Roy  
Mark D. Foss  
Anine Merkens