



VIA ELECTRONIC MAIL TO: Bryan Lethcoe

February 23, 2023

Mr. Bryan Lethcoe
Director, Southwest Region
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
8701 S. Gessner, Suite 630
Houston, TX 77074

**Re: Denbury Green Pipeline - Montana, LLC
Notice of Probable Violation and Proposed Civil Penalty
CPF 4-2023-015-NOPV**

Dear Mr. Lethcoe:

On January 25, 2023, the Pipeline and Hazardous Materials Safety Administration ("PHMSA") issued a Notice of Probable Violation ("NOPV") and Proposed Civil Penalty ("PCP") dated January 25, 2023, to Denbury Green Pipeline - Montana, LLC ("Denbury"), CPF 4-2023-015-NOPV. This letter constitutes Denbury's formal response to the NOPV and PCP. As this response is submitted within thirty days of receipt of the above referenced NOPV, Denbury's response is timely.

With respect to Item 1 in the NOPV, Denbury disputes that Denbury did not construct its Cedar Creek Anticline (CCA) pipeline in accordance with comprehensive written specifications or standards that are consistent with the requirements of Part 195 in accordance with §195.202; specifically, the allegation that Denbury failed to consistently follow its procedures by not installing the SP-6 Outerwrap on Spread-1. Rather, Denbury did properly install RD-6 in conformance with the Manufacturer's specifications and requirements, as per Section 2.3 of procedure *C1080 - Below Grade Pipe Coatings* within Denbury's Construction Standards on Spread-1 of the CCA Pipeline Project. There is no question that Denbury followed the required installation procedures of RD-6, sections 1-4 of the *RD-6 Coating System Application Specification* (Attachment 1). Section 5.1 of that same specification recommends the SP-6 Outerwrap but does not require it, therefore Section 5 is not applicable. In addition, the construction contractor for Spread-1, Sunland Construction, Inc., contacted the manufacturer of the RD-6 coating system, Polyguard, in reference to the application of the SP-6 Outerwrap and it was stated that the use of SP-6 Outerwrap is a recommendation, not a requirement (Attachment 2). Pursuant to 49 CFR 190.208(a)(3), Denbury objects to the violation alleged in Item 1, does not agree with the associated penalty assessment, and provides the documents attached as "Attachment 1" and "Attachment 2" in support of its claim that Denbury followed its comprehensive written construction specifications for Spread 1 of the CCA Pipeline Project.

With respect to Item 2 in the NOPV, Denbury disputes that Denbury did not construct its CCA pipeline in accordance with comprehensive written specifications or standards that are consistent with the requirements of Part 195 in accordance with 49 CFR 195.202; specifically, the allegation that Denbury failed to provide records or a

register of approved welding equipment demonstrating the required calibration of its welding equipment. Rather, Denbury ensured the Contractor calibrated all of their welding equipment used on the CCA pipeline project to confirm that said equipment was capable of operating according to the applicable welding procedures. In addition, PHMSA's inspector did not request a record or register. Had one been requested at the time of the inspection Denbury would have provided the daily *Welding Inspector Tie-In Report* for August 11, 2021, which documents on page 1 that the welding parameters were checked by the welding inspector and a record, or register, of approved welding equipment was listed on page 4. Page 4 indicates the parameters of the welders' equipment was verified and that those parameters met the requirements of the welding procedure used (Attachment 3). Pursuant to 49 CFR 190.208(a)(3), Denbury objects to the violation alleged in Item 2, does not agree with the associated penalty assessment, and provides the document attached as "Attachment 3" in support of its claim that Denbury followed its comprehensive written construction specifications for Spread 2 of the CCA Pipeline Project.

With respect to Item 3 in the NOPV, Denbury disputes that Denbury did not construct its CCA pipeline in accordance with comprehensive written specifications or standards that are consistent with the requirements of 49 CFR 195 in accordance with §195.202; specifically, the allegation applies the wrong Denbury construction standard. This was a road bore that was used to cross a road and several foreign pipelines and therefore constructed pursuant to Denbury's construction standard *C1140 – Railway, Highway, and Road Crossings* and not the stated standard *C1160 – Horizontal Directional Drilling*. Denbury used trenchless technology to perform not only Horizontal Directional Drilling (HDD) but all designated bores on the CCA pipeline project (the same equipment and similar technique). The purpose of the 4-hour pretest is to mitigate the risk on much longer and deeper crossings, where the consequence of an unlikely failure is significant and replacing the drill string, once installed, would be costly and time consuming and would have the potential for additional impacts such as environmental impacts within a wetland or waterbody. In the case of a road crossing, a pretest would be unnecessary because the consequences of an unlikely failure are not significant enough to offset the time and cost of pre-testing the pipe. While CTI termed this crossing an HDD, due to the equipment and technique used, it was in-fact a 284' bore (5 joints of pipe) that crossed beneath a road, several foreign pipelines, was not in an environmentally sensitive area, and therefore a 4-hour pre-test was not necessary due to its relatively short (5 joints) distance, shallow depth (20.2 ft max). The pipe was inspected prior to pull back and was included in the final 8-hour pressure test performed prior to placing the pipeline in service.

The typical HDD is long and deep and crosses under areas that are difficult to access and that either Denbury and/or external regulatory agencies feel would be unnecessarily impacted by conventional pipeline construction methods (open trench methods). An HDD requires the fabrication of a drill string consisting of multiple pipe joints welded together prior to pulling the string into the bore hole. Since the typical HDD is associated with a long and deep crossing designed to avoid a sensitive feature and/or difficult terrain, the drill strings associated with them are typically long and will ultimately cross areas that are difficult to access. Therefore, the consequences of an unlikely failure, requiring the possible replacement of pipe, is significant from a cost and time perspective and a ROW and environmental impact perspective. Denbury's use of a 4-hour hydrostatic pre-test on the fabricated drill string pipe is a prudent proactive procedure that helps to mitigate Denbury's contractual risk of having a pipe quality issue arise after the prefabricated pipeline is pulled into a bore hole. This pre-test is not intended to replace the final 8-hour pressure test that is performed for the entire pipeline, inclusive of the HDD's and bores installed along the pipeline (including pre-tested segments).

For further clarity, the Coral Creek site on Spread-2 that is referred to in the NOPV is the crossing of Coral Creek Road and the pipe was hydrostatically tested for 8 hours (as required in 49 CFR 195, Subpart E) prior to placing the pipeline in-service. This final 8-hour pressure test, in addition to providing assurance that the fabricated drill string had integrity prior to its pullback (which is what the 4-hour pretest is designed to do) also provided the assurance that the drill string was not damaged during the pullback operation process prior to placing the pipeline in-service (assurance that the 4-hour pretest is not able to provide). This bore was neither long (only ~5 pipe joints) nor unusually deep and did not cross any areas that were difficult to access or environmentally sensitive. Therefore, pursuant to 49 CFR 190.208(a)(3), Denbury objects to the violation alleged in Item 3, does not agree with the

associated penalty assessment, and provides the document attached as "Attachment 4" in support of its claim that Denbury followed its comprehensive written construction specifications for Spread 2 of the CCA Pipeline Project.

With respect to Item 4, Denbury agrees to Item 4 and does not contest the alleged violation of 49 CFR 195.202. Denbury will update the Section 3.2 of *Procedure C1130 – Pressure Testing* to ensure documentation includes the name of the Contract Company or subcontractor conducting the test upon conclusion of testing.

Denbury shares PHMSA's desire and commitment to ensure public safety and to enhance pipeline system integrity. Thank you for your consideration. If you have any questions or require any additional information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "David E. Sheppard". The signature is fluid and cursive, with a large initial "D" and "S".

David Sheppard
Executive Vice President & Chief Operating Officer
Denbury Inc.

cc: Mr. Randy Robichaux, Vice President-Health Safety and Environmental, randy.robichaux@denbury.com
