September 25, 2023

VIA ELECTRONIC MAIL TO: chris.kendall@denbury.com

Chris Kendall
Director, President, and Chief Executive Officer
Denbury Inc.
5851 Legacy Circle, Suite 1200
Plano, Texas 75024

Re: CPF No. 4-2023-016-NOPV

Dear Mr. Kendall:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and specifies actions that need to be taken by Denbury Green Pipeline – Texas, LLC, a subsidiary of Denbury Inc., to comply with the pipeline safety regulations. When the terms of the compliance order have been completed, as determined by the Director, Southwest Region, this enforcement action will be closed. Service of the Final Order by e-mail is effective upon the date of transmission and acknowledgement of receipt as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Bryan Lethcoe, Director, Southwest Region, Office of Pipeline Safety, PHMSA
Mr. David Sheppard, Executive Vice President and Chief Operating Officer, Denbury Inc., david.sheppard@denbury.com
Mr. Randy Robichaux, Vice President, Health, Safety and Environmental, Denbury Onshore, LLC, randy.robichaux@denbury.com

CONFIRMATION OF RECEIPT REQUESTED

U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590

In the Matter of	)	
	)	
Denbury Green Pipeline – Texas, LLC,	)	**CPF No. 4-2023-016-NOPV**
a subsidiary of Denbury Inc.,	)	
	)	
Respondent.	)	

FINAL ORDER

From February 23, 2021, through July 23, 2021, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of Denbury Green Pipeline – Texas, LLC's (Denbury or Respondent) carbon dioxide (CO_2) transmission pipeline system located in Texas. Respondent is a subsidiary of Denbury Inc.[1]

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated January 31, 2023, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Denbury had committed two violations of 49 C.F.R. Part 195 and proposed ordering Respondent to take certain measures to correct the alleged violations.

Denbury Onshore, LLC, another subsidiary of Denbury Inc., responded to the Notice by letter dated March 2, 2023, (Response) on behalf of Respondent and contested one of the allegations. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 195, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(i)(1), which states:

[1] US SEC Form 10-K, Denbury Inc., *available at* https://www.sec.gov/ix?doc=/Archives/edgar/data/945764/000094576423000028/den-20221231 htm (last accessed September 6, 2023).

§ 195.452 Pipeline integrity management in high consequence areas.

(a) …

(i) *What preventative and mitigative measures must an operator take to protect the high consequence area? –*

(1) *General requirements.* An operator must take measures to prevent and mitigate the consequences of a pipeline failure that could affect a high consequence area. These measures include conducting a risk analysis of the pipeline segment to identify additional actions to enhance public safety or environmental protection. Such actions may include, but are not limited to, implementing damage prevention best practices, better monitoring of cathodic protection where corrosion is a concern, establishing shorter inspection intervals, installing EFRDs on the pipeline segment, modifying the systems that monitor pressure and detect leaks, providing additional training to personnel on response procedures, conducting drills with local emergency responders and adopting other management controls.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(i)(1) by failing to conduct a risk analysis to identify additional actions to enhance public safety or environmental protection for facilities that could affect a high consequence area (HCA). Specifically, the Notice alleged that Denbury failed to conduct a risk analysis in 2019 for its Brazoria Station, Beaumont Pig Launcher and Receiver Station, OCI Beaumont Lateral, and Air Products Meter Station tie-in,[2] as required by its procedures.[3]

In its Response, Denbury did not deny it had failed to complete a risk analysis in 2019 but argued that it was not in violation of § 195.452(i)(1) because it "reviewed and considered additional actions in 2021 as 49 C.F.R. 195.452(i) requires but decided that they were not needed."[4] Denbury asserted that it conducted risk assessments on October 27, 2021, and November 2, 2021, and identified the potential additional preventative and mitigative measures (P&MM) of installing remoted mounted cameras and additional inspections as well as additional internal coupon inspections of the OCI Beaumont Lateral Meter Site, but ultimately determined that the current P&MM in place were sufficient and chose not to implement them.[5] Denbury averred that as it had identified and considered additional P&MM it was not in violation of § 195.452(i)(1).

Denbury's argument is very similar to another enforcement action with another of Denbury Inc.'s subsidiaries alleging a violation of § 195.452(i)(1).[6] In that case, PHMSA brought an enforcement action alleging the operator had violated § 195.452(i)(1) for failing to do a risk

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[2] Denbury ceased operation of the Air Products Meter Station tie-in on October 1, 2019.

[3] Denbury's procedures require it to conduct a risk analysis pursuant to § 195.452(i)(1) every five years. Prior to 2021, the last risk analysis was conducted in 2014.

[4] Response, at 1.

[5] *Id.*

[6] Denbury Onshore, LLC, Final Order, CPF 4-2022-041-NOPV, 2023 WL 3884046 (April 28, 2023).

analysis in 2019 for five pipeline facilities in HCAs in accordance with its procedures.[7] Like this proceeding, the operator did not dispute that it had failed to conduct a risk analysis every five years as its procedures required, but argued that it was not in violation of the pipeline safety regulations because it had identified and rejected additional P&MM during a subsequent evaluation, concluding that the P&MM it had in place for the HCAs were sufficient.[8] In that Final Order, I determined the operator was in violation of § 195.452(i)(1), noting further how compliance with this requirement is related to other critical elements of integrity management:

> Under § 195.452(f)(6), identification of P&MM to protect the high consequence area (HCA) is an element of an integrity management program (IMP). An operator must continually change this program to reflect operating experience, conclusions drawn from results of the integrity assessments, other maintenance and surveillance data, and evaluation of consequences of a failure on the HCA. Pursuant to § 195.452(j)(3), an operator must continually evaluate and assess pipeline integrity at intervals of five years, not to exceed 68 months. [The operator's] own procedures establish a five-year interval for P&MM risk analysis. [The operator] complied with neither. An operator must follow their manual of written procedures [9].

Likewise, here Denbury acknowledges it failed to follow its own procedures to conduct a risk analysis as required by § 195.452(i)(1) in 2019. Respondent's assertion that it is not in violation of the pipeline safety regulations because two years after it was due, it conducted an assessment and determined additional P&MM were not necessary is inconsistent with the requirements of the pipeline safety regulations and Denbury's integrity management procedures.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(i)(1) by failing to conduct a risk analysis to identify additional actions to enhance public safety or environmental protection for facilities that could affect an HCA in 2019.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(k), which states:

> **§ 195.452 Pipeline integrity management in high consequence areas.**
> (a) …
> (k) *What methods to measure program effectiveness must be used?* An operator's program must include methods to measure whether the program is effective in assessing and evaluating the integrity of each pipeline segment and in protecting the high consequence areas. See Appendix C of this part for guidance on methods that can be used to evaluate a program's effectiveness.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(k) by failing to measure the effectiveness of its integrity management program (IMP) in assessing and evaluating the integrity of each pipeline segment and in protecting the HCAs. Specifically, the Notice alleged that Denbury failed to conduct an annual integrity management performance measurement from 2015 to 2020.

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[7] *Id.*

[8] *Id.*

[9] *Id,* at 2-3.

In its Response, Denbury did not contest the alleged violation and agreed to perform the tasks required in the proposed compliance order.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(k) by failing to measure the effectiveness of its IMP in HCAs.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1 and 2 in the Notice for violations of 49 C.F.R. §§ 195.452(i)(1) and 195.452(k), respectively. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601.

With regard to the violation of § 195.452(i)(1) (Item 1), Respondent argued it had already provided documentation complying with the terms of the proposed compliance order but would provide them again to PHMSA as required by the proposed compliance order. Having reviewed the record, I do not find confirmation that Respondent has previously provided the documentation to the Director. Additionally, in its recommendation submitted pursuant to § 190.209(b)(7), the Region asserted it had not received the documents Denbury stated it had provided. For these reasons, the Compliance Order is not modified.

Denbury did not contest the compliance terms for Item 2.

Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 195.452(i)(1) (**Item 1**), Respondent must conduct a comprehensive facility risk analysis for all facilities that could affect an HCA to identify P&MM to enhance public safety or environmental protection. Denbury must submit the comprehensive facility risk analysis report to the Director, Southwest Region, PHMSA within **90** days of the issuance of the Final Order. Denbury must also provide its most recent list of all could-affect HCA facilities to the Director, Southwest Region, within **90** days of the issuance of the Final Order.

2. With respect to the violation of § 195.452(k) (**Item 2**), Respondent must measure whether its IMP is effective in assessing and evaluating the integrity of each pipeline segment and in protecting HCAs. Denbury must submit the IMP effectiveness review to the Director, Southwest Region, PHMSA within **60** days of the issuance of the Final Order.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

PHMSA requests that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. It is requested that these costs be reported in two categories: (1) total cost associated with preparation/revision of plans, procedures, studies, and analyses; and (2) total cost associated with replacements, additions, and other changes to pipeline infrastructure.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed $200,000, as adjusted for inflation (*see* 49 C.F.R. § 190.223), for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. The written petition must be received no later than 20 days after receipt of the Final Order by Respondent. Any petition submitted must contain a statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The terms of the order, including corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

September 25, 2023

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Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued