

October 27, 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. 4-2023-017-NOPV

Dear Mr. Kendall:

Enclosed please find the Final Order issued in the above-referenced case. It withdraws two of the allegations of violation, makes a finding of violation and specifies actions that need to be taken by Denbury Gulf Coast Pipelines, 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 Gulf Coast Pipelines, LLC,	)	CPF No. 4-2023-017-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 Gulf Coast Pipelines, LLC's (Denbury or Respondent) carbon dioxide (CO2) transmission pipeline system located in Louisiana and Mississippi. Respondent is a subsidiary of Denbury Inc.

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 three 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 two of the allegations. Respondent did not request a hearing and therefore has waived its right to one.

FINDING 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:

§ 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) in accordance with the pipeline safety regulations and its written procedures.¹ Specifically, the Notice alleged that while Denbury identified the Methanex Tie-In and Launcher pipeline segment as a facility that could affect an HCA in 2014, it failed to conduct a risk analysis in 2014 and 2019.

In its Response, Denbury disputed the allegation that it failed to conduct a risk analysis to identify additional preventative and mitigative measures that could affect an HCA in 2014 and 2019 for the Methanex Tie-In and Launcher pipeline segment, as that pipeline segment did not go into service until 2020. Therefore, Denbury argued, it could not have performed a risk analysis on the pipeline in 2014 and 2019.

In a recommendation for final action submitted pursuant to § 190.209(b)(7), the Director, Southwest Region, recommended withdrawing the alleged violation of § 195.452(i)(1).

Accordingly, after considering all of the evidence, I hereby order that Item 1 be withdrawn.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.452(i)(4), which states:

§ 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) ...

(4) *Emergency Flow Restricting Devices (EFRD).* If an operator determines that an EFRD is needed on a pipeline segment to protect a high consequence area in the event of a hazardous liquid pipeline release, an operator must install the EFRD. In making this determination, an operator must, at least, consider the following factors – the swiftness of leak detection and pipeline shutdown capabilities, the type of commodity

¹ Notice, at 2 (“Denbury’s procedures required it conduct a risk analysis pursuant to § 195.452(i)(1) every five years.”).

carried, the rate of potential leakage, the volume that can be released, topography or pipeline profile, the potential for ignition, proximity to power sources, location of nearest response personnel, specific terrain within the HCA or between the pipeline segment and the high consequence area, and benefits expected by reducing the spill size.²

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(i)(4) by failing to perform a risk assessment to determine whether emergency flow restricting devices (EFRDs) were needed on pipeline segments to protect HCAs and in accordance with its procedures. Specifically, the Notice alleged that Denbury failed to perform an EFRD risk assessment utilizing all the factors stated in § 195.452(i)(4) as required and in accordance with its written integrity management program (IMP).

In its Response, Denbury contested the allegation and maintained that the pipeline safety regulations requiring an EFRD analysis only applied to hazardous liquid pipelines and excluded CO₂ pipelines. Denbury furthered averred that it had complied with its written IMP, contending that after an analysis of information about the pipeline was compared to an EFRD analysis performed on a comparable CO₂ pipeline segment, it was determined no further evaluation was required.³

In a recommendation for final action submitted pursuant to § 190.209(b)(7), the Director recommended withdrawing the alleged violation of § 195.452(i)(4), stating that while Southwest Region disagreed with the position that an EFRD analysis is not required on a CO₂ pipeline, and disagreed with Respondent's argument that it had followed its procedures, it recognized that in a recent final order I found § 195.452(i)(4) applies specifically to hazardous liquid pipelines, and § 195.2 does not include CO₂ in the definition of a hazardous liquid.⁴

Accordingly, after considering all of the evidence, and I hereby order that Item 2 be withdrawn.

Item 3: 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.

² This Final Order quotes 49 CFR § 195.452(i)(4) as it was written at the time of the inspection. The regulation has been subsequently amended effective October 5, 2022 (See 87 FR 20940).

³ Despite contending it is not mandatory, Denbury agreed to perform an EFRD risk assessment and submit the assessment to the Director within 180 days of issuance of the Final Order.

⁴ Region Recommendation, at 3.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(k) by failing to measure the effectiveness of its 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.

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.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1, 2, and 3 in the Notice for violations of 49 C.F.R. §§ 195.452(i)(1), 195.452(i)(4), and 195.452(k), respectively. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of carbon dioxide or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. As discussed above, Items 1 and 2 have been withdrawn. Therefore, the compliance terms proposed in the Notice for those Items are not included in this Order.

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(k) (**Item 3**), 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.

October 27, 2023

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued