



U.S. Department
of Transportation
**Pipeline and
Hazardous Materials
Safety Administration**

1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

May 29, 2026

VIA ELECTRONIC MAIL TO: gbacon@eprod.com

Graham W. Bacon
Executive Vice President & Chief Operating Officer
Dixie Pipeline Company LLC
1100 Louisiana Street
Houston, Texas 77002

Re: CPF No. 4-2023-049-NOPV

Dear Mr. Bacon:

Enclosed please find the Decision on Petition for Reconsideration issued in the above-referenced case to Dixie Pipeline Company LLC. Service of the Decision on Petition for Reconsideration by e-mail is effective upon the date of transmission and acknowledgement of receipt as provided under 49 CFR § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Linda Daugherty
Acting Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Rod Seeley, Acting Director, Southwest Region, Office of Pipeline Safety, PHMSA
Mr. Timothy O-Shea, Southwest Region Attorney, PHMSA
Mr. Zachary Craft, Esq., Counsel for Dixie Pipeline Company LLC, zlcraft@eprod.com
Ms. Brianne Kurdock, Esq., Babst Calland, Counsel to Dixie Pipeline Company LLC,
bkurdock@babstcalland.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	)	
	)	
Dixie Pipeline Company, LLC,	)	CPF No. 4-2023-049-NOPV
	)	
Respondent.	)	
	)	

DECISION ON PETITION FOR RECONSIDERATION

The Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), performed a pipeline safety inspection of Dixie Pipeline Company LLC’s (Dixie or Respondent) facilities, records, and procedures in Apex, North Carolina, Milner, Georgia, and Mont Belvieu, Texas from February 7, 2022 through January 30, 2023, pursuant to 49 U.S.C. § 60117. Dixie operates an interstate hazardous liquid pipeline facility in the Southeast United States.

On August 14, 2023, the Director, Southwest Region, OPS (Director), issued Dixie a Notice of Probable Violation and Proposed Civil Penalty (Notice) pursuant to 49 CFR § 190.207. The Notice proposed finding that Dixie committed one violation of 49 CFR Part 195 and proposed assessing a civil penalty of \$21,200 for the alleged violation.

On September 13, 2024, Enterprise Products Operating LLC responded to the Notice on Dixie’s behalf as Dixie is a wholly owned subsidiary of Enterprise. Dixie contested the allegation of violation and the proposed civil penalty. Dixie and PHMSA made pre-hearing submissions on April 8, 2024. A hearing was held on April 18, 2024, in Houston, Texas, before a Presiding Official from PHMSA’s Office of Chief Counsel. The parties were represented by counsel. Dixie entered a post-hearing submission on May 20, 2024. PHMSA submitted a recommendation for final order on June 20, 2024, and Dixie submitted a reply to the Recommendation on July 19, 2024.

On June 2, 2025, the Director issued a revised recommendation reducing the proposed penalty to \$19,600 pursuant to the May 20, 2025 PHMSA “Policy for Calculating Proposed Civil Penalties in Pipeline Safety Enforcement Proceedings.” Dixie responded to the revised civil penalty recommendation on June 17, 2025, and reiterated the arguments it made in its pre-hearing, post-hearing, and reply briefs.

On August 29, 2025, PHMSA issued a Final Order finding that Dixie violated 49 CFR § 195.583(a) and assessed a civil penalty of \$19,300 for the violation.

On September 18, 2025, Dixie filed a Petition for Reconsideration pursuant to 49 CFR § 190.243. PHMSA moved for leave to file a response to the Petition and simultaneously filed the Response on October 8, 2025. Dixie replied to PHMSA's submission on October 23, 2025. PHMSA's motion to respond to the Petition is granted, and both the Response and the Reply have been considered along with the Petition.

The Petition argues that: (1) PHMSA erred in its finding that there was substantial evidence presented establishing a violation; (2) PHMSA erred by failing to respond to the case law Dixie presented regarding waiver and forfeiture; and (3) PHMSA misunderstood the evidence provided at the hearing on the existence of high vegetation.

STANDARD OF REVIEW

Pursuant to 49 CFR § 190.243 a respondent may petition the Associate Administrator for reconsideration of a final order that has been issued pursuant to section 190.213. Reconsideration is not an appeal or a completely new review of the record. A respondent may ask for correction of an error or, in limited circumstances, may present previously unavailable information. If a respondent requests consideration of additional facts or arguments, they must provide reasons they were not presented prior to the final order. The Associate Administrator may grant or deny, in whole or part, a petition for reconsideration without further proceedings.

DISCUSSION

PHMSA Correctly Found that the Final Order Presented Substantial Evidence Establishing a Violation

Dixie argues that PHMSA did not present any evidence, including witness testimony, at the hearing¹ but instead relied on Dixie's inspection reports (Exhibits B-1, B-2, and B-3) which are insufficient evidence of a violation of section 195.583. In support, Dixie cites to Inland Corp., CPF No. 1-2017-5003, 2018 WL 2229407 (March 7, 2018) (finding insufficient evidence of a violation wherein PHMSA relied solely on photographs taken by the respondent). Inland Corp. declined to find a violation because respondent's photographs were inconsistent with PHMSA's argument that the construction was complete. 2018 WL 2229407 at *3. Inland Corp. did not hold that the photographic evidence was insufficient to prove a violation merely because the respondent took them. See id. Instead, it held that the photos did not prove PHMSA's contention. See id. Accordingly, Inland Corp. does not support Dixie's contention.

Dixie further argues that the inspection reports (Exhibits B-1, B-2, and B-3) only demonstrate that Dixie proactively included intermittently submerged pipeline segments in its atmospheric corrosion program.² PHMSA disagrees, as more conclusions could be reached by reviewing these

¹ To the extent that PHMSA failed to present any evidence, including failing to call witnesses at the hearing, PHMSA took an unreasonable risk that it may not get away with in the future. Such a risk misses an important opportunity for PHMSA to highlight facts and evidence favorable to it that a presiding official may not see.

² In making this argument, Dixie ignores PHMSA's prehearing Exhibit B-4 which consists of May 2022 photos that the presiding official reviewed and determined depicted exposed pipeline segments.

exhibits. As explained in the Final Order, Exhibit B-3 shows that on July 26, 2021 and September 27, 2021, locations 124 and 125, intermittently exposed locations, were not inspected due to “high vegetation.” There is no exception described in section 195.583 for “high vegetation.” While Dixie argues that locations 124 and 125 *could* have been submerged on July 26, 2021 and September 27, 2021, those locations are, at the very least, periodically exposed and therefore subject to section 195.583(a). Further, it can be reasonably inferred that if locations 124 and 125 were submerged on those dates Dixie would have availed itself of the regulatory exception for submerged pipelines and reported them as such.

Dixie argues that PHMSA bears the burden of proof that locations 124 and 125 were not submerged. PHMSA’s burden of proof is satisfied by Exhibits B-1 through B-4, which are part of the record and were properly considered by the presiding official. See 49 CFR § 190.211(h).

PHMSA Was Not Required to Refute Dixie’s Waiver and Forfeiture Arguments

Dixie argues that PHMSA should have refuted the case law Dixie cited concerning waiver and forfeiture. Dixie’s arguments concerning waiver and forfeiture were procedural arguments that sought to exclude certain arguments that PHMSA raised for the first time in the Region Recommendation. The cases cited in Dixie’s reply brief concerned the requirement that appellants preserve objections for consideration on appeal. See Fetting v. Kijakzai, 62 F.4th 332 (7th Cir. 2023) (appellant could have but did not raise argument during administrative hearing or in post hearing brief); Honcharov v. Barr, 924 F.3d 1295 (9th Cir. 2019) (raising new argument for the first time on appeal). This requirement is based on the Federal Rules of Appellate Procedure. See Fed. R. App. P. 28(a)(8)(A). These cases do not support Dixie’s contention because PHMSA raised the argument for the first time in its Region Recommendation – not on appeal in federal court.

PHMSA Did Not Misunderstand the Evidence

Dixie argues that “PHMSA determined that because the identified segments were covered in high vegetation during Dixie’s attempt to inspect for atmospheric corrosion, that those pipeline segments were exposed.” PHMSA did not conclude that the segments were exposed simply because of the existence of high vegetation. As discussed, Exhibits B-3 and B-4 depict locations 124 and 125. PHMSA physically viewed locations 124 and 125 and took pictures that depict pipeline segments that are not “buried or submerged in an electrolyte such as soil or water” consistent with PHMSA’s Corrosion Control Enforcement Guidance. Indeed, the pipelines are clearly visible in the photos. The Hearing Officer concluded that the pipelines were exposed using these pictures along with Dixie’s record of prior inspections.

For the foregoing reasons, Dixie’s request for reconsideration is DENIED.

Linda Daugherty
Acting Associate Administrator
for Pipeline Safety

Date Issued