

**NOTICE OF PROBABLE VIOLATION  
and  
PROPOSED CIVIL PENALTY**

**VIA ELECTRONIC MAIL TO:**  
**kathleen.d.ash@exxonmobil.com**  
**juvenal@republictestinglabs.com**

January 17, 2025

Kathleen Ash  
Director, President, and Chief Executive Officer  
Denbury Gulf Coast Pipelines, LLC  
5851 Legacy Circle, Ste 1200  
Plano, Texas 75024

Juvenal Calvo  
President  
Republic Testing Laboratories, LLC  
3670 Underwood Road  
La Porte, Texas 77571

**CPF 4-2025-024-NOPV**

Dear Ms. Kathleen Ash and Mr. Juvenal Calvo:

From August 30, 2023, through December 7, 2023, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to 49 U.S.C. § 60117(a) and (c)-(d), inspected Denbury Gulf Coast Pipelines, LLC's (Denbury) Horizontal Directional Drilling (HDD) pipeline installation. This included inspection of welding procedure qualifications and welder qualifications at Republic Testing Laboratories, LLC's (Republic) facility in La Porte, Texas. This HDD installation was related to the replacement of a segment of Denbury's 24-inch Delhi pipeline segment that ruptured on February 22, 2020, and resulted in the evacuation of a total of 200 residents and 45 residents being hospitalized in the town of Sartaria, Mississippi.

Under 49 U.S.C. § 60118(e)(2)(A), the "Secretary may impose a civil penalty under section 60122 on a person who obstructs or prevents the Secretary from carrying out inspections or investigations

under [chapter 601].” Under 49 U.S.C. § 60118(e)(2)(B)(i), obstruction is defined to include “actions that were known, or reasonably should have been known, to prevent, hinder, or impede an investigation without good cause.” Pursuant to section 60117(a)(3), “[a] person owning or operating a pipeline facility shall allow access to or copying of records, make reports and provide information, and allow entry or inspection required under subsections (a) through (e) of section 60117 of [] title [49].” Under 49 U.S.C. § 60117(d), PHMSA inspectors may enter the premises “on display of proper credentials to the individual in charge [] to inspect the records and property of a person at a reasonable time and in a reasonable way to decide whether a person is complying with [chapter 601 of title 49 of the U.S. Code] and standards prescribed...under [that] chapter.” 49 C.F.R. § 190.203(a) and (b) confirm PHMSA's authority to inspect for compliance and § 190.203(e) implements the corresponding statutory provision in 49 U.S.C. § 60118(e)(2).

As a result of the inspection, it is alleged that Denbury and Republic have committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The item inspected and probable violation is:

**1. § 190.203 Inspections and investigations**

**(a) Officers, employees, or agents authorized by the Associate Administrator for Pipeline Safety, PHMSA, upon presenting appropriate credentials, are authorized to enter upon, inspect, and examine, at reasonable times and in a reasonable manner, the records and properties of persons to the extent such records and properties are relevant to determining the compliance of such persons with the requirements of 49 U.S.C. 60101 *et seq.*, or regulations or orders issued thereunder.**

**(b) Inspections are ordinarily conducted pursuant to one of the following:**

**(1) Routine scheduling by the Regional Director of the Region in which the facility is located;**

**(2) A complaint received from a member of the public;**

**(3) Information obtained from a previous inspection;**

**(4) Report from a State Agency participating in the Federal Program under 49 U.S.C. 60105;**

**(5) Pipeline accident or incident; or**

**(6) Whenever deemed appropriate by the Associate Administrator.**

**(c) . . . .**

**(e) If a representative of the U.S. Department of Transportation inspects or investigates an accident or incident involving a pipeline facility, the operator must make available to the representative all records and information that pertain to the event in any way, including integrity management plans and test results. The operator must provide all reasonable assistance in the investigation. Any person who obstructs an inspection or investigation by taking actions that were known or reasonably should have been known to prevent, hinder, or impede an investigation without good cause will be subject to administrative civil penalties under this subpart.**

Denbury and its welding contractor, Republic Testing Laboratories, LLC (Republic), obstructed the inspection by taking actions that were known or reasonably should have been known to prevent, hinder, or impede the inspection contrary to § 190.203(e). PHMSA provided reasonable notification to the operator and was provided authorization from the Director for inspecting the Denbury HDD pipeline installation. During PHMSA's inspection of the HDD project, Denbury and Republic obstructed the inspection by taking the following actions, among others, each of which was known or reasonably should have been known to prevent, hinder, or impede the inspection: 1) physically blocking the PHMSA inspector from interviewing a Denbury welder regarding the welding procedure; 2) preventing PHMSA inspectors from being present during welding testing; 3) preventing PHMSA inspectors from observing welding activities; 4) interfering with PHMSA's examination of a test specimen; 5) refusing to provide PHMSA with requested data relevant to the inspection; and 6) interrupting PHMSA's examination of a test reading on a piece of equipment.

First, Denbury and Republic physically blocked the PHMSA inspector from interviewing a Republic welder that completed a branch weld for a branch weld procedure qualification. Specifically, on September 6, 2023, PHMSA inspectors were on-site at Republic's weld shop where a welder was preparing to cut test specimens from a branch weld he had completed the previous day. While the PHMSA inspector attempted to verify that the welder had been provided a welding procedure specification that was used to make the branch weld for procedure qualification, Republic's welding engineer pushed the PHMSA inspector to prevent the questioning and physically separated the PHMSA inspector from the welder. The Republic welding engineer proceeded to aggressively question the PHMSA inspector's authority to question a welder about the welding procedure specification that was used to produce the branch weld. The PHMSA inspectors notified Denbury's project manager of this confrontation. Due to this physical and verbal confrontation, the PHMSA inspector was prevented from conducting the inspection. These actions by Republic and Denbury were known or reasonably should have been known to prevent, hinder, or impede the inspection.

Second, Denbury and Republic prevented PHMSA inspectors from being present during destructive testing of welder qualification weld specimens. Specifically, on September 7, 2023, PHMSA inspectors were on-site at Republic observing welder qualifications. Denbury and Republic personnel informed PHMSA inspectors that the destructive tests for the welders who had completed their welds would be conducted the following morning and requested PHMSA to leave the facility before 5:00 p.m. due to closing of the facility. The PHMSA inspector was assured that destructive tests of weld specimens would be completed the following day. However, when the PHMSA inspectors arrived at the facility the morning of September 8, 2023, they were informed that the destructive testing had been completed the previous night, after PHMSA inspectors were asked to leave. PHMSA had previously communicated with Denbury in an email on September 5, 2023, that PHMSA inspectors wanted to be present for the destructive testing. Denbury and Republic intentionally conducted the destructive testing without PHMSA inspectors present. PHMSA notified Denbury of this obstruction via email on September 8, 2023. The actions by Republic and Denbury prevented PHMSA inspectors from observing the welding qualification and testing, and therefore were known or reasonably should have been known to prevent, hinder, or impede PHMSA's inspection.

Third, Denbury and Republic prevented PHMSA inspectors from observing welding activities and the welding parameters produced by the data logger. Specifically, on September 11, 2023, Republic placed an opaque orange screen between the PHMSA inspectors and the welding activity to prevent PHMSA from observing the welding of a branch welding procedure qualification. PHMSA had observed similar activities during the previous week of the inspection without any barrier. This screen was only installed after PHMSA inspectors raised issues with the welding and wanted to acquire data from the data logger. Republic intentionally kept PHMSA inspectors behind the screen and prevented PHMSA inspectors from observing the raw data being gathered in real time from the data logger, which was behind the screen and capturing the welding parameters in real time. The orange opaque barrier prevented PHMSA inspectors from observing the initial welding activity. These actions were known or reasonably should have been known to prevent, hinder, or impede PHMSA's inspection.

Fourth, Denbury and Republic interfered with PHMSA's examination of a test specimen. Specifically, on September 11, 2023, PHMSA inspectors attempted to examine a root bend specimen by evaluating the weld, taking photographs, and making records of the test specimen. During the previous week's inspection (September 6-8, 2023) Republic had similarly failed to properly evaluate a test specimen. The test specimens were incorrectly tested and deemed acceptable by Republic. It was only after PHMSA raised concerns about evaluation of the test specimens that Republic reluctantly acknowledged its error in the evaluation of the test specimen. As a result of this, PHMSA wanted to ensure that Republic properly evaluate the specimen. On September 11, 2023, PHMSA inspectors noted visual indications of defects on the test specimen and attempted to address the matter with Denbury. Denbury failed to conduct a measurement of the visual indication to assess if it exceeded the acceptance criteria allowed by API Standard 1104. While PHMSA inspectors were attempting to evaluate and examine the test specimen, a Republic employee became extremely agitated and began mocking the PHMSA inspectors regarding their welding experience. PHMSA inspectors perceived the behavior as unprofessional and intimidating with a clear intention to hinder and impede PHMSA's inspection. The Republic employee's conduct continued to devolve, including making a sexist comment towards a PHMSA inspector. Based on discussions with the PHMSA inspector's supervisor, the PHMSA inspector decided to leave the facility due to safety reasons. After Republic's misconduct, the PHMSA inspector immediately notified Denbury's on-site Project Manager of the inappropriate behavior. PHMSA requested that Denbury remove that Republic employee from the inspection. However, that Republic employee continued to be involved in PHMSA's inspection. Republic's actions that caused a PHMSA inspector to leave the inspection due to safety concerns and the failure of Denbury to remove the Republic employee from further involvement in the inspection were known or reasonably should have been known to prevent, hinder, or impede PHMSA's inspection.

Fifth, Denbury and Republic refused to provide PHMSA with requested data relevant to the inspection. Specifically, on September 6 and 11, 2023, a Republic employee refused to provide PHMSA inspectors the welding data measurements for voltage, amperage, and travel speed necessary to confirm that the welding was being done within the parameters of the procedure being qualified. The data was being recorded by a data logger (Mini Arc Logger II), but Denbury refused to provide this data to the PHMSA inspectors. The refusal and unreasonable delays in providing

information was known or reasonably should have been known to prevent, hinder, or impede PHMSA’s inspection.

Sixth, Denbury and Republic interrupted PHMSA’s examination of a test reading on a piece of equipment. Specifically, on September 11, 2023, a Republic employee prevented a PHMSA inspector from photographing a reading on a piece of Charpy test equipment. The Republic employee scolded the PHMSA inspector, suggesting the PHMSA inspector was in an unsafe position to photograph the impact reading. However, the PHMSA inspector was photographing the reading while the machine was not in operation and was otherwise out of range of the moving parts. These actions were known or reasonably should have been known to prevent, hinder, or impede PHMSA’s inspection.

Denbury’s and Republic’s actions hindered, or otherwise impeded PHMSA’s inspection of Denbury’s HDD pipeline operations, without good cause, forcing PHMSA to suspend the inspection prior to completion, and thus obstructed PHMSA’s inspection in violation of 49 U.S.C. § 60118(e)(2)(A) and 49 C.F.R. § 190.203(e).

Proposed Civil Penalty

Under 49 U.S.C. § 60122(a)(1), “[a] person that ... has violated ... [49 U.S.C. §] 60118(a) ... or a regulation prescribed ... under [chapter 49] is liable” for a civil penalty not to exceed \$266,015 per violation per day the violation persists, up to a maximum of \$2,660,135 for a related series of violations. For violation occurring on or after January 6, 2023, and before December 28, 2023, the maximum penalty may not exceed \$257,664 per violation per day the violation persists, up to a maximum of \$2,576,627 for a related series of violations.

The Proposed Civil Penalty was determined using the requisite civil penalty assessment factors in 49 U.S.C. § 60122(b) and 49 C.F.R. § 190.225. In determining the amount of a civil penalty, PHMSA must consider (1) the nature, circumstances and gravity of the violation, including adverse impact on the environment; (2) the degree of the respondent's culpability; (3) the respondent’s history of prior offenses; (4) any good faith by the respondent in attempting to achieve compliance; and (5) the effect on the respondent's ability to continue in business. With respect to culpability, Denbury and Republic took egregious action that evidenced an effort to evade compliance or conceal non-compliance in its obstruction of PHMSA’s investigation. Other contributing factors to the Proposed Civil Penalty include the multiple days over which the obstructions took place and Denbury’s history of prior offenses.

We have reviewed the circumstances and supporting documentation involved for the above probable violation and recommend that Denbury and Republic, together, be preliminarily assessed a civil penalty of \$ 2,366,900 for violating 49 U.S.C. § 60118(e)(2)(A) and 49 C.F.R. § 190.203(e) as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$ 2,366,900

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in*

*Enforcement Proceedings.* Please refer to this document and note the response options. All material you submit in response to this enforcement action may be made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. § 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. § 552(b).

Following your receipt of this Notice, you have 30 days to respond as described in the enclosed *Response Options*. If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from receipt of this Notice. The Region Director may extend the period for responding upon a written request timely submitted demonstrating good cause for an extension.

In your correspondence on this matter, please refer to **CPF 4-2025-024-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Bryan Lethcoe  
Director, Southwest Region, Office of Pipeline Safety  
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Response Options for Pipeline Operators in Enforcement Proceedings*

cc: David Haerberle, Executive Vice President and Chief Operating Officer, Denbury Gulf Coast Pipelines, LLC, david.haerberle@exxonmobil.com  
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